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Executive Orders

EXECUTIVE ORDER KBB 07-32

Bond Allocation—Louisiana Public Facilities Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. KBB 2005-12 was issued to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2007 (hereafter "the 2007 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2007 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Public Facilities Authority has requested an allocation from the 2007 Ceiling to be used to finance the acquisition, construction and installation by Air Products and Chemicals, Inc. of a 120 MMSCFD reformer using methane to produce hydrogen and steam for supply to the Marathon Petroleum Company refinery in the city of Garyville, parish of St. John the Baptist, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

NOW THEREFORE, I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2007 Ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$50,000,000	Louisiana Public Facilities Authority	Air Products and Chemicals, Inc.

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2007, provided that such bonds are delivered to the initial purchasers thereof on or before December 29, 2007.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of December, 2007.

Kathleen Babineaux Blanco
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
0712#108

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Milk Products and Substitutions (LAC 7.XXXI. Chapter 5)

The Louisiana legislature, by Acts 2007, No. 461, §1, enacted R.S. 47:6026 relative to providing a refundable tax credit for certified milk producers. Section 2 of Act 461 provides that the provisions of the act become effective for all taxable periods beginning on or after January 1, 2007. The Louisiana Law Institute, by the powers granted to it by the Legislature, has redesignated the section as R.S. 47:6032. Act 461 provides that the Department of Agriculture and Forestry shall promulgate regulations establishing the provisions of the announced production price. R.S. 3:2(A) provides that the Commissioner of Agriculture and Forestry shall head the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except for research and educational functions expressly allocated by the constitution or by law to other state agencies.

The legislature has made the provisions of Act 461 effective for calendar year 2007 so that Louisiana milk producers who qualify for the credit may take advantage of this tax credit for the 2007 taxable year. The Commissioner of Agriculture and Forestry, on behalf of the Department of Agriculture and Forestry, is proposing the following rules and regulations to establish the announced production price and to provide for the orderly administration of the provisions of R.S. 47:6032.

If regulations are not in place before the end of 2007 Louisiana milk producers will not be able to take advantage of the tax credit, thereby frustrating the will of the Legislature and creating a substantial probability that additional Louisiana milk producers will go out of business. The number of dairy farmers and total milk production continues to decline in Louisiana. The loss of Louisiana milk producers has been occurring at an alarming rate over the past few years. There is a point of critical mass whereas the loss in total production results in a loss in supporting infrastructure. This infrastructure is the mainstay of the milk production industry and consists of feed dealers, equipment suppliers, milk haulers, veterinarians and other businesses, all of whom provide employment, boost the local economy, and add additional tax revenues to local, state, and federal coffers. In addition to this macro effect, remaining dairy farmers end up paying more to maintain a smaller infrastructure or lose it all together.

The extent of the loss of Louisiana milk producers is such that there is an imminent peril that the Louisiana's dairy industry will cease to exist without measures that assist the Louisiana milk producers. The loss of milk producers will also pose a clear danger that the supporting infrastructure will also cease to exist, or at least, be substantially reduced

in size. Louisiana would then suffer the loss of a substantial segment of its economy, thereby affecting employment, the local and state economies, and tax revenues. Louisiana consumers of milk would also be deprived of sources of fresh milk produced locally in Louisiana.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rule is necessary in order to fulfill the will of the Legislature, and to protect the public welfare and the economy of this state.

This Rule becomes effective upon signature, December 3, 2007, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XXXI. Milk, Milk Products and Substitutions

Chapter 5. Tax Credit for certain Milk Producers

§501. Purpose and Effective Date

A. These regulations implement the provisions of R.S. 47:6032.

B. These regulations are effective for taxable periods beginning on or after January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§503. Definitions

Announced Production Price—the average of the production price of milk for the three years immediately preceding the calendar year for which tax credits may be given.

Certified Milk Producer—a milk producer who has been certified as such to the Department of Revenue by the Department of Health and Hospitals in accordance with R. S. 47:6032(E).

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his designee.

Federal Milk Market Order (FMMO)—a regulation issued by the United States secretary of agriculture specifying minimum prices and conditions for the purchase of milk from dairy farmers within a specified geographic area.

Information Release Form—a form entitled "Authorization to Release Information" which authorizes the milk market administrator or other persons to release information held by the administrator or other person relative to that milk producer.

LDAF—the Louisiana Department of Agriculture and Forestry or its designee.

Milk Handler—the person, including a dairy cooperative, who collects or receives a milk producer's milk directly from the milk producer's dairy.

Milk Market Administrator—the market administrator of the FMMO that covers this state.

Milk Producer—a resident taxpayer of the State of Louisiana who is engaged in the business of producing milk in this state from his own cows.

Non-Pooled Milk—milk that is produced in Louisiana for sale but is not included in milk production records maintained by the milk market administrator. Examples of non-pooled milk include milk pooled on FMMOs that do not cover this state, milk that has been sold but not pooled on any FMMO, and milk that had to be dumped or destroyed for legitimate reasons.

Non-Pooled Milk Form—a form or list entitled "non-pooled milk production certification" submitted by a milk producer or milk handler showing the amount of non-pooled milk produced by a milk producer for a year for which the credit is applied for.

Production Price—an annual price derived by averaging over 12 months the monthly sum of the market balancing factor, (which is the monthly arithmetic difference between the average of the sums of the uniform prices plus the associated transportation costs of moving milk from its export points of origin to New Orleans, Louisiana less the monthly uniform price in the FMMO that covers this state), plus the cost of milk production in this state as determined by the LSU Agricultural Center's Department of Agricultural Economics and Agribusiness.

Tax Credit—the milk producer refundable tax credit established by R. S. 47:6032.

Uniform Price—the weighted average price established in the FMMO covering this state.

AUTHORITY NOTE: Promulgated in accordance with La. R. S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§505. Cooperative Endeavor agreements

A. For the purpose of implementing the provisions of Acts 2007, No. 461 and these regulations LDAF, through the commissioner, may enter into cooperative endeavor agreements with other state agencies, federal agencies, or private entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§507. Responsibilities of Milk Producers and Milk Handlers

A. It shall be the responsibility of any milk producer who wants to apply for a tax credit in the year for which the credit is applied for to:

1. Hold a milk producer permit during the year for which the credit is applied for under Louisiana Administrative Code, Title 51, Public Health Sanitary Code, Part VII, Milk, Milk Products, and Manufactured Milk Products and meet the requirements of the 2007 revision to the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration.

2. Ensure that the records of the Department of Health and Hospitals reflect that during the year for which the credit is applied for the milk producer was in compliance with the requirements set out in Subsection 1 for purposes of being certified as a milk producer;

3. Timely submit to LDAF a properly completed and signed information release form.

4. Timely submit to LDAF a properly completed and signed non-pool milk form for the year for which the credit is applied for if the milk producer's milk did not go into the FMMO milk pool for Louisiana and is not listed on a non-

pooled milk form submitted by the milk producer's milk handler. The form shall certify the amount of such non-pool milk produced by the milk producer for that year and the reasons why the milk is non-pooled milk and why the milk is not listed on the certification form submitted by the milk handler.

5. Timely submit to LDAF all other forms and information, properly completed and signed, that may be required by that department.

6. Timely claim the tax credit on the appropriate income tax return in accordance with the Department of Revenue's regulations and policies.

B. It shall be the responsibility of each milk handler to timely submit to LDAF a properly completed and signed non-pooled milk form showing the amount of non-pooled milk collected or received by the milk handler from each of its milk producers. A milk handler may substitute a list showing its milk producers who have non-pooled milk, the amount of non-pooled milk, and the reason the milk is non-pooled milk for the non-pooled milk form.

C. Failure of a milk producer or milk handler to fulfill the responsibilities set out in Subsections A and B of this Section may result in the milk producer being disqualified from receiving any tax credit for the applicable tax year for which the credit is applied for or receiving less than the maximum allowable tax credit for the year for which the credit is applied for.

D. All forms and lists shall be free of false statements or false representations of any material fact. A milk producer or milk handler may be referred to the appropriate district attorney for possible criminal prosecution under R.S. 14:133 for filing false public records if the milk producer or milk handler files with LDAF or other state agency a form that contains a false statement or false representation of a material fact or provides false information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§509. Forms; Distribution

A. All forms required by these regulations to be filled out and submitted by a milk producer or milk handler may be obtained from LDAF.

B. LDAF shall submit all forms relative to the tax credit which are received from milk producers and milk handlers to the proper state or federal agency or other appropriate entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§511. Determination of the Announced Production Price

A. The announced production price shall be determined based on the following factors:

1. the average uniform price of milk in the top five states from which milk is imported to Louisiana;

2. the average transportation cost of importing milk from those five states;

3. the cost of production in Louisiana.

B. The determination of the announced production price shall be based on calculations made by the Louisiana State University Agricultural Center, Department of Agricultural

Economics and Agribusiness, using the factors set out in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§513. Determination of Tax Credit for Individual Producers and Eligible Quarters

A. LDAF shall, no later than April 31 of each year, provide the Department of Revenue with a chart for the previous year for which the credit is applied for showing the names of each participating certified milk producer, the amount of milk produced by each, the anticipated amount of tax credit each certified milk producer is eligible to receive, and any other information necessary or proper for the Department of Revenue to pay the tax credits.

1. Prior to submission of the chart to the Department of Revenue, a review committee composed of a person appointed by the commissioner, one person appointed by the secretary of health and hospitals, one person appointed by the secretary of revenue, and one certified milk producer shall review and approve the chart.

B. Determination of the amount of milk produced during a calendar year by a participating certified milk producer shall be based on information obtained from the non-pooled milk certification forms and from records maintained by the milk market administrator.

C. Determination of the anticipated amount of tax credit each certified milk producer is eligible to receive shall be based on:

1. the amount of milk produced by the certified milk producer;

2. the maximum amount of tax credit the certified milk producer would be eligible to receive based on the amount of milk produced by that certified milk producer and the tax credit schedule set out in R.S. 47:6032(C);

3. if applicable, the percentage or ratio shown by dividing the statutory cap on the tax credit by the aggregate of the tax credit that all the certified milk producers would be eligible to receive if there was no statutory cap in place; and

4. the number of eligible quarters to which the tax credit shall be prorated.

a. A quarter shall be considered to be an eligible quarter for purposes of the tax credit whenever the uniform price for any one month of the quarter drops below the announced production price.

NOTE: For example, assume that a participating certified milk producer produces between 2,000,001 and 2,500,000 pounds of pooled and non-pooled milk combined for the year in which he is applying for a tax credit. He would be eligible under the statute for a maximum tax credit of \$20,000, which, prorated over four quarters, would be \$5,000 per quarter. If the aggregate of the tax credits that all participating certified milk producers would be entitled to for that year is equal to or less than the statutory cap of \$2,500,000 and each quarter of the year is an eligible quarter then the certified milk producer in this example would receive a \$20,000 tax credit. If there are only two eligible quarters in the year then the maximum tax credit he would receive would be \$10,000, (\$5,000 per quarter X 2).

If, however, the aggregate of the tax credits that all participating certified milk producers would be entitled to exceeds the statutory cap of \$2,500,000.00 then all individual tax credits would have to be adjusted by a percent or ratio such that the aggregate cap of dairy tax credits for the taxable year would not exceed \$2,500,000. Suppose the aggregate tax

credit in this example equaled \$3,100,000. Then the whole number percentage or ratio adjustment to individual tax credits necessary to maintain the aggregate tax credit for the year at or under \$2,500,000 would be 80%. The participating certified milk producer in this example would be eligible for a maximum credit of \$16,000, or \$4,000.00 per quarter, (80% of the maximum tax credit of \$20,000) if each quarter of the year is an eligible quarter. However, if there were only two eligible quarters in the year and the aggregate of the tax credits that all participating certified milk producers would be entitled to receive would, by virtue of that fact, be reduced to \$2,500,000 or less then the certified milk producer in this example would be eligible to receive the non-prorated maximum tax credit for each quarter. In this example that tax credit would be \$10,000, (\$5,000 per quarter X 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§515. Acceptance of Tax Credit

A. The Department of Revenue shall accept the properly claimed tax credit from a certified milk producer based on the name and tax identification number listed on the chart that LDAF provides to the Department of Revenue.

B. The tax credit may be used to offset any outstanding state tax liability and any overpayment will be refunded to the certified milk producer.

C. LDAF shall determine the name and tax identification number of the certified milk producer based on the name and tax identification number listed on the information release form.

D. If two or more milk producers combined their milk under one certified milk producer's permit then the division of the tax credit among such milk producers shall be the responsibility of those milk producers and not the responsibility of either LDAF or the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§517. Certification of Non-Pooled Milk

A. LDAF may certify non-pooled milk for inclusion in determining the amount of tax credit due to a certified milk producer if a non-pooled milk form or list is submitted by the certified milk producer or on his behalf by a milk handler not later than January 31 of the year immediately following the year for which the credit is applied for.

B. The milk producer or milk handler shall provide LDAF with documentation sufficient to show that the non-pooled milk was commercially produced in Louisiana and the reason why the milk is non-pooled milk.

C. LDAF may investigate the circumstances and require the milk producer or milk handler to provide additional information in determining whether the non-pooled milk is to be used for determining the milk producer's tax credit.

D. If LDAF determines that the non-pooled milk is to be used for determining the certified milk producer's tax credit then LDAF shall notify the milk producer of that determination and provide the information to the person or entity making the tax credit calculations.

E. If LDAF determines that the non-pooled milk is not to be used for determining the milk producer's tax credit then LDAF shall notify the milk producer of that determination on or before February 28 of the year immediately following the year for which the credit is applied for.

F. Any milk producer who is aggrieved by a decision of LDAF regarding the eligibility of non-pooled milk may petition the commissioner for an administrative hearing to determine the validity of the decision by LDAF.

1. Any such petition must be filed within thirty days after the milk producer receives notice from LDAF of the decision the milk producer is appealing.

2. The administrative hearing shall be held within thirty days after receipt of the milk producer's petition. The administrative hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

3. The commissioner may conduct the hearing or appoint a hearing officer to conduct the hearing and make a recommendation to the commissioner. In all cases the commissioner shall make the final administrative decision.

4. Any petition for judicial review of the commissioner's decision shall be filed in accordance with the Administrative Procedure Act and within the time limits set out in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§519. Notices

A. LDAF shall publish the announced production price and list of eligible quarters in the Potpourri Section of the *Louisiana Register* and disseminate this information to milk producers by means reasonably calculated to provide notice to the milk producers.

B. LDAF shall notify each participating certified milk producer of the amount of tax credit that the milk producer is entitled to at the time that the chart of tax credits is submitted to the Department of Revenue.

C. All announcements and notices relative to the tax credit that LDAF is required to provide by law or these regulations to milk producers shall be provided by means reasonably calculated to provide notice to the milk producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§521. Disputes Regarding Milk Producer Tax Credit Qualifications

A. All disputes regarding whether a milk producer is or is not a certified milk producer shall be decided by the Department of Health and Hospitals in accordance with the regulations and policies of that department.

B. All disputes regarding eligibility for a tax credit or the amount thereof due the milk producer under the provisions of R. S. 47:6032 shall be decided by the Department of Revenue in accordance with the regulations and policies of that Department.

C. All disputes regarding certification of the amount of non-pooled milk produced during a calendar year shall be decided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

§523. Confidentiality of Records; Maintenance of Records

A. All information provided by a milk producer or milk handler to LDAF or to other state or federal agencies and any information received by LDAF from other state or federal agencies that is declared by the milk producer or milk handler to be proprietary or trade secret information, or which is considered to be confidential under the U.S. or Louisiana Constitutions or by Louisiana law shall be treated by LDAF as confidential information that is exempt from Louisiana's public records laws.

B. LDAF's records relative to the tax credit shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:

Bob Odom
Commissioner

0712#018

DECLARATION OF EMERGENCY Student Financial Assistance Commission Office of Student Financial Assistance

Advisory Committee Bylaws
(LAC 28:V.Chapter 2)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)).

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective November 20, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (AC0892E)

Title 28

EDUCATION

Part V. Student Financial Assistance—Higher Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission

Subchapter A. Purpose and Authority

§203. Authority of the Committee

A. The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter B. Meetings

§215. Compensation

A. Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations if their respective school does not reimburse them for their expenses. No other compensation is authorized. Members may decline reimbursement for expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter C. Membership and Officers of the Committee

§221. Membership

A.1. The committee shall be composed of eight voting members, who shall be the financial aid director or his/her designee representing the Louisiana State University System, the Southern University System, the University of Louisiana System, the Louisiana Community and Technical College System, the Professional Schools, the Louisiana Association of Independent Colleges and Universities, and proprietary selected by the Louisiana Career College Association; and a student member.

2. The executive director of the LOSFA shall be an ex officio, nonvoting member of the committee.

3. The president or his/her designee of the Louisiana Student Financial Aid Administrators shall be a nonvoting member of the committee.

B. Rotation of Members. Voting members shall rotate according to the following schedule:

1. Louisiana State University System:
 - a. University of New Orleans;
 - b. Louisiana State University at Alexandria;
 - c. Louisiana State University at Shreveport;
 - d. Louisiana State University at Eunice;
 - e. Louisiana State University at Baton Rouge.
2. Southern University System:
 - a. Southern University at Baton Rouge. The initial term shall be for one year;
 - b. Southern University at New Orleans;
 - c. Southern University at Shreveport;
3. University of Louisiana System:
 - a. University of Louisiana at Monroe. The initial term shall be for one year;
 - b. Louisiana Tech University;
 - c. McNeese State University;
 - d. Nicholls State University;
 - e. Northwestern State University;
 - f. Southeastern State University;
 - g. University of Louisiana at Lafayette;
 - h. Grambling State University.
4. Louisiana Community and Technical College System:
 - a. Delgado Community College. The initial term shall be for one year;
 - b. Baton Rouge Community College;
 - c. Bossier Parish Community College;
 - d. Delta Community College;

- e. L.E. Fletcher Community and Technical College;
 - f. River Parishes Community College;
 - g. South Louisiana Community College;
 - h. SOWELA Technical Community College;
 - i. Louisiana Technical College.
5. Professional Schools:
 - a. Louisiana State University Health Sciences Center at New Orleans;
 - b. Louisiana State University Health Sciences Center at Shreveport;
 - c. Southern University Law Center;
 - d. Tulane Medical and Law School.
 6. Louisiana Association of Independent Colleges and Universities:
 - a. Centenary College;
 - b. Dillard University;
 - c. Louisiana College;
 - d. Loyola University;
 - e. New Orleans Baptist Theological Seminary;
 - f. Our Lady of Holy Cross College;
 - g. Our Lady of the Lake College;
 - h. St. Joseph Seminary College;
 - i. Tulane University;
 - j. Xavier University.
 7. Proprietary Schools
 - a. The Louisiana Career College Association shall rotate membership among the proprietary.
 - b. The rotation will ensure that all schools are offered membership before the rotation repeats.
 8. Student
 - a. A student member shall be selected by the Financial Aid Officer who is a member of the Advisory Committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.
 - b. Student members shall serve one year terms and may not serve two consecutive terms.
 - c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.
- C. Term
1. The term of voting members shall be for two years except as indicated in §221.B above. Members may not serve two consecutive terms, except as indicated in §221.E.2 below.
 2. Terms shall be staggered.
 3. Terms shall begin on October 1 of each year.
- D. Notification of Membership
1. Except for the 2007-2008 academic year, LOSFA shall send a notice to the financial aid directors of the schools who are eligible to be members of the advisory committee no later than September 1 of each year. In the notice, LOSFA shall request confirmation of that financial aid director's willingness to serve as a member and the name of the financial aid director's designee, if there is one.
 2. The financial aid director must submit the confirmation of membership by September 30 of that same year.
- E. Replacements
1. If a financial aid director declines to participate or does not submit a timely confirmation, the next school in the

rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director.

2. If a financial aid director is unable to complete his/her term for any reason, the financial aid director from the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director. The replacement member shall complete the rest of the term and shall be eligible for membership for the next two year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:

§223. Chairman and Vice-Chairman

A. The committee chairman and vice chairman shall be selected annually by vote of the members of the advisory committee, from among the members of the committee. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter D. Business Rules

§241. Meeting Attendance

A. Members unable to continue their service on the committee shall so notify the chairman and request that a replacement be named in accordance with §221 of these bylaws. Members who fail to regularly attend meetings without just cause, may be removed from membership in accordance with §221 of these bylaws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

Subchapter E. Approval and Amendment of Bylaws

§245. Approval of Bylaws

A. To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of LOSFA. Bylaws become effective upon approval by the commission and publication as a final Rule in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

§247. Amendments to Bylaws

A. The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire

membership of the committee. Amendment or repeal of the bylaws becomes effective upon approval by the commission and publication as an Emergency Rule and/or a final Rule in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

George Badge Eldredge
General Counsel

0712#008

DECLARATION OF EMERGENCY

Office of the Governor Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Appointment Requirements (LAC 46:LXX.6104)

In accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots amends LAC 46:LXX.6104, Appointment, to increase the experience level and requirements for appointment by the Governor to the Board of Examiners. Current law does not define the requisite "qualification" for member appointment to the NOBRA Board of Examiners. Adoption of this Emergency Rule would require the candidate to possess 10 years unrestricted service on the NOBRA route, thereby increasing the degree of skill and experience needed to oversee accidents and incidents along the Mississippi River. This Emergency Rule, effective November 15, 2007, shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 7. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Chapter 61. General Provisions

§6104. Appointment

A. When there is a need for new examiners, the Board of Examiners shall make recommendations to the governor for replacement(s) to fill any vacancies.

B. When this need arises, the Board of Examiners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. ten years unrestricted service on the NOBRA route;
- 3.a. all candidates shall have piloted 100 vessels on the NOBRA route for the previous 3 years; or
- b. all candidates shall have piloted 33 percent of the average number of turns per pilot on the NOBRA route for the previous 3 years, whichever is greater.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 30:2471 (November 2004), amended LR 34:

Captain Henry G. Shows, Jr.
Chairman

0712#005

DECLARATION OF EMERGENCY

Office of the Governor Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Appointment Requirements (LAC 46:LXX.6104)

In accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., the Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots hereby rescinds the November 15, 2007 Emergency Rule, Appointment Requirements (LAC 46:LXX.6104, effective December 5, 2007. This Emergency Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Captain Henry G. Shows, Jr.
Chairman

0712#031

DECLARATION OF EMERGENCY

Department of Health and Hospitals Emergency Response Network Board

Emergency Response Network
(LAC 48:I.Chapters 181, 183, and 185)

The Department of Health and Hospitals, Louisiana Emergency Response Network Board, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt LAC 48.I.1801 et seq., Louisiana Emergency Response Network Board, initial rules and regulations. This Emergency Rule effective November 15, 2007 will remain in effect for a period of 120 days.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Response Network Board were created within the Department of Health and Hospitals. The Louisiana Emergency Network Board is authorized by R.S. 40:2844(H) to adopt rules and regulations for board governance, by R.S. 40:2845(A)(3)(a) to adopt rules and regulations to provide for duties and responsibilities of the nine regional commissions, and by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

This initial enactment of rules by the Louisiana Emergency Response Network board as an Emergency Rule

is necessary to effectuate the provisions of R.S. 40:2841 et seq. An imminent peril to the public health, safety and welfare requires adoption as an Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Louisiana Emergency

Response Network Board

Chapter 181. General Provisions

§18101. Scope

A. These rules are adopted by the Louisiana Emergency Network (hereinafter LERN) Board (hereinafter board) to effectuate the provisions of R.S. 40:2841 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

Chapter 183. Louisiana Emergency Response Network (LERN) Board

§18301. Board Officers of Louisiana Emergency Response Network (LERN) Board

A. The chairman and vice-chairman, and any other officers that the board shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

B. In the case of a vacancy in the office of chairman, the vice-chairman shall serve the remainder of the vacated term, and in the case of a vacancy in the office of vice-chairman, the board shall elect a new vice-chairman who shall serve the remainder of the vacated term.

C. The chairman shall:

1. preside at all meetings of the board;
2. determine necessary subcommittees and working group and appoint members to each subcommittee and working groups;
3. direct activities of staff between board meetings;
4. provide direction on behalf of board between meetings to all regional commissions;
5. designate the date, time and place of board meetings;
6. enter into confidentiality agreements on behalf of the board regarding pertinent data to be submitted to board and board staff which contain individually identifiable health or proprietary information;
7. perform all other duties as may be assigned by the board.

D. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

E. A ground for removal of a board officer includes conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

§18303. Quorum

A. Eight members of the board shall constitute a quorum for all purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

§18305. Grounds for Removal of Board Members

A. Grounds for removal of board members include conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

Chapter 185. Regional Commissions; Membership; Officers; Meetings; Duties and Responsibilities

§18501. Regional Commission Membership

A. Selection of Regional Commission Membership by Louisiana Emergency Response Network (LERN) Board

1. The process for selecting the Regional Commission members is as follows:

a. the LERN Board Chairman shall request in writing the name of a nominee to serve on each regional commission from each of the legislatively identified state organizations;

b. in the event there is more than one organization, state association or entity, each entity shall be requested to name a nominee and, once constituted, the commission shall choose from among the nominees; and

c. if no state or local organization exists in a category, but multiple nominees are identified in that category, the selection of the representative to serve on the regional commission will be determined by that category's group of nominees.

2. Once documentation is received from each organization or group, the compiled list of nominees is submitted to the board for ratification. The board shall appoint those selected by the various organizations.

B. Voting members of the regional commission may be added through a process employing the following steps:

1. majority vote of a quorum of voting members of the commission;

2. formal written request to LERN Board to add specified voting member, with reasons for adding. Such addition must represent a group which would enhance the working of the regional commission;

3. majority vote by LERN Board members at a meeting. If such a vote fails, the regional commission may appear in person at the following LERN Board meeting, where the subject will be revisited;

4. once an additional voting member is approved for one region, in order for other regions to add a member representing the same group, only a letter detailing the requirements of Paragraphs 1 through 3 above will be necessary to add the particular member. Board approval will not require an additional vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

§18503. Regional Commission Officers

A. Each regional commission shall select a chairman and vice chairman.

B. The chairman and vice-chairman, and any other officers that the commission shall deem necessary, shall be elected for a two-year term at the first meeting held following January 1 of each even numbered year.

C. In the case of a vacancy in the office of chairman, the vice-chairman shall serve as chairman for the remaining vacated term; and in the case of a vacancy in the office of vice-chairman, the regional commission shall elect a new vice-chairman who shall serve until the expiration of the vacated term.

D. The chairman shall:

1. preside at all meetings of the commission;

2. determine necessary Ad Hoc Committees, appoint a commission member to chair each such committee, and provide for the commission as a whole to name the membership of the committee;

3. provide direction to the commission to implement the mandates of the LERN Board;

4. direct that a record of all meetings of the commission shall be kept and such records shall be retained as permanent records of the transactions of the commission; and

5. perform all other duties pertaining to the office of chairman of the commission or as may be assigned by the commission.

E. Should the chairman become unable to perform the duties of chairman, the vice-chairman shall act in his stead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

§18505. Regional Commission Meetings

A. Meetings of the commission shall be noticed, convened and held not less frequently than quarterly during each calendar year and otherwise at the call of the chairman or on the written petition for a meeting signed by not less than the number of members which would constitute a quorum of the commission. Meetings shall be held on such date and at such time and place as may be designated by the chairman.

B. One third of the currently serving members of the commission shall constitute a quorum for all purposes. All actions which the commission is empowered by law to take shall be effected by vote of not less than a majority of the members present at a meeting of the commission at which a quorum is present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

§18507. Regional Commission Duties and Responsibilities

A. Each regional commission shall:

1. develop a written system plan for submission to LERN Board, which plan shall:

a. identify all resources available in the region for emergency and disaster preparedness and response;

b. be based on standard guidelines for comprehensive system development;

c. include all parishes within the region unless a specific parish portion thereof has been aligned within an adjacent region;

d. give an opportunity to all health care entities and interested specialty centers opportunity to participate in the planning process; and

- e. address the following components:
 - i. injury prevention;
 - ii. access to the system;
 - iii. communications;
 - iv. pre-hospital triage criteria;
 - v. diversion policies;
 - vi. bypass protocols;
 - vii. regional medical control;
 - viii. facility triage criteria;
 - ix. inter-hospital transfers;
 - x. planning for the designation of trauma facilities, including the identification of the lead facility(ies); and
 - xi. a performance improvement program that evaluates processes and outcomes from a system perspective;
- 2. upon approval of the board, implement the system plan to include:
 - a. education of all entities about the plan components;
 - b. on-going review of resource, process, and outcome data; and
 - c. if necessary, revision and re-approval of the plan or plan components by LERN Board;
- 3. annually complete a regional needs assessment and conduct education and training within the region to meet the needs identified in the annual needs assessment;
- 4. develop and implement a regional performance improvement (PI) program plan;
- 5. develop and implement a regional injury prevention program;
- 6. at least quarterly, submit evidence of on-going activity, including meeting notices and minutes, to LERN Board; and
- 7. annually submit a report to LERN Board which describes progress toward system development and demonstrates on-going activity.

B. Regional commission may request technical assistance from the LERN Board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2845(A)(3)(a) and 40:2846(A).
 HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network Board, LR 34:

Lester Johnson, M.D.
 Chairman

0712#007

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Inpatient Hospital Services
 Non-Rural, Non-State Hospitals
 Children's Specialty Hospitals Psychiatric Units
 (LAC 50:V.911)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.911 in the Medical Assistance Program as authorized

by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement to children's specialty hospitals for inpatient psychiatric services provided to children who require emergency admissions. The bureau adopted by Emergency Rule provisions to allow for the reimbursement of inpatient psychiatric services provided to children who require non-emergency admissions to the psychiatric units of children's specialty hospitals (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 6, 2007 Emergency Rule.

This action is being taken to avoid imminent threat to the health and welfare of children who are in need of inpatient psychiatric services.

Effective for dates of service on or after January 5, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing inpatient psychiatric services provided to children in children's specialty hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals
Chapter 9. Non-Rural Private Hospitals
Subchapter A. General Provisions
§911. Children's Specialty Hospitals Psychiatric Units

A. A psychiatric sub-provider unit in a Medicare Prospective Payment System (PPS) exempt children's specialty hospital may enroll in the Medicaid Program. The hospital must submit an attestation to the department that the unit meets the PPS exempt criteria outlined in 42 CFR 412.25 [except 412.25 (a)(1)(ii)]. Enrollment of the new unit will be effective upon verification of the hospital's attestation by the department.

B. Changes in the number of beds in existing units may only be made at the start of the hospital's cost reporting period. The hospital must notify the department of changes in bed size at least 90 days prior to the end of the hospital's cost reporting period. Qualifying Medicaid services provided in these approved units shall be subjected to the existing pre-admission certification requirements for children and adolescents in distinct part psychiatric/substance abuse units in acute care general hospitals.

C. Reimbursement for services will be the inpatient psychiatric prospective per diem rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#092

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural,
Non-State Hospitals—Reimbursement Rate Increase
(LAC 50:V.953-959)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:V.953-959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register*, Volume 20, Number 6), free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 19, Number 6). In compliance with the directives of Act 17 of the 2006 Regular Session of the Louisiana Legislature, the bureau amended the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to private hospitals and free-standing and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 2).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the Medicaid reimbursement rates paid to private providers for inpatient and outpatient hospital services. In compliance with the directives of Act 18, the department amended by Emergency Rule the reimbursement methodology for non-rural private inpatient hospital services to increase the Medicaid reimbursement rates paid for inpatient hospital services, including non-rural private (non-state) acute care hospitals, long term hospitals, hospital intensive neurological rehabilitation units and free-standing psychiatric hospitals and distinct part psychiatric units (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2007 Emergency Rule.

This Emergency Rule is being promulgated to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and recipient access to providers of these medically necessary services.

Effective for dates of service on or after December 31, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing reimbursement rates paid for inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to non-rural private (non-state) acute care hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§955. Long Term Hospitals

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to long term hospitals for inpatient services shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§957. Hospital Intensive Neurological Rehabilitation Units

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to hospital intensive neurological rehabilitation care units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§959. Inpatient Psychiatric Hospital Services

A. For dates of service on or after September 1, 2007, the prospective per diem rate paid to private free-standing psychiatric hospitals and distinct part psychiatric units shall be increased by 4.75 percent of the rate on file for August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for

responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#091

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medical Transportation Program—Emergency and Non-Emergency Ambulance Services—Reimbursement Rate Increase (LAC 50:XXVII.Chapters 3-5)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.Chapters 3-5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for emergency and non-emergency ambulance services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2002 and 2006 Regular Sessions, the Bureau increased the reimbursement rate for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 28, Number 12) and increased the base rate and ground mileage reimbursement rate for emergency ambulance transportation services (*Louisiana Register*, Volume 33, Number 3).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the ground mileage rate and ancillary services rate for emergency and non-emergency ambulance transportation services. In compliance with the directives of Act 18, the department amended the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the ground mileage rate and the ancillary services rate (*Louisiana Register*, Volume 33, Number 8). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2007 Emergency Rule. This action is being taken to promote the health and welfare of recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program.

Effective December 31, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for emergency and non-emergency ambulance transportation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part. XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for land-based ambulance services is the rate established in the State fee schedule (based on Medicare rates) for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. For dates of service on or after September 1, 2006, the base rate for emergency ambulance transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

C. For dates of service on or after September 1, 2006, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by 17 percent of the rates in effect on August 31, 2006.

D. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

E. For dates of service on or after September 1, 2007, the ancillary services rate for emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. Reimbursement for non-emergency ambulance transportation claims shall be allowed only when accompanied by the medical certification form justifying the need for ambulance services.

B. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for non-emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

C. For dates of service on or after September 1, 2007, the ancillary services rate for non-emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§573. Non-Emergency, Non-Ambulance Transportation

A. For dates of service on or after September 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

B. For dates of service on or after December 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by an additional 9 percent of the rates in effect on November 30, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#093

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

School Based Health Centers (LAC 50:XV.Chapter 91)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.Chapter 91 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Adolescent School Health Initiative Act of 1991, R.S. 40:31.3, directed the Department of Health and Hospitals, Office of Public Health to establish an adolescent school health initiative to facilitate and encourage development of comprehensive health centers in public middle and secondary schools to provide preventive health services, counseling and acute health services to students. In compliance with the directives of the Adolescent School Health Initiative Act, the department established School Based Health Centers (SBHCs) to provide convenient access to preventive and primary health services for students who might otherwise have limited or no access to health care. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive (*Louisiana Register*, Volume 33, Number 9).

This Emergency Rule is being promulgated to amend the August 25, 2007 Emergency Rule to clarify the scope of services for School Based Health Centers.

This action is being taken to promote the public health and well-being of children by providing access to needed mental health services.

Effective December 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the August 25, 2007 Emergency Rule to clarify the scope of services for School Based Health Centers.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis and Treatment

Chapter 91. School Based Health Centers

Subchapter A. General Provisions

§9101. Purpose

A. The Adolescent School Health Initiative Act of 1991 authorized the development of an adolescent school based health initiative to facilitate and encourage the provision of comprehensive health centers in public middle and secondary schools.

B. School Based Health Centers (SBHCs) provide convenient access to preventive and primary health care services for students who might otherwise have limited or no access to health care, and meet the physical and emotional health needs of adolescents at their school sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Provider Participation

§9111. Provider Qualifications

A. The SBHC classification must be verified by the Office of Public Health, Adolescent School Health Program when applying for a Medicaid provider number.

1. Documentation of this verification must be provided upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§9113. Standards of Participation

A. School Based Health Centers must comply with the applicable licensure, certification and program participation standards for all services rendered. The SBHC shall:

1. maintain an acceptable fiscal record keeping system that readily distinguishes one type of service from another type of service that may be rendered;

2. retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for providing such services, to the Medicaid Program upon request; and

3. abide by and adhere to all federal and state regulations and policy manuals.

B. The SBHC shall provide comprehensive primary medical, social and mental health services, as well as health education, promotion and prevention services to meet the

psychosocial and physical health needs of students enrolled in the SBHC in the context of their family, culture and environment.

C. School Based Health Centers shall acquire written parental consent in order to enroll a student as a patient.

D. The SBHC and all partners involved in service delivery must adhere to Health Insurance Portability and Accountability Act (HIPAA) privacy policies and procedures.

E. The SBHC must be enrolled as a KIDMED screening provider in addition to enrollment for providing any other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter C. Services

§9121. Scope of Services

A. The Medicaid Program provides reimbursement for the following medically necessary health care services provided by School Based Health Centers:

1. preventive health care services; and
2. evaluation, diagnosis and treatment of mental and behavioral health conditions.
3. - 6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:31.3 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. Staffing Requirements

§9131. Minimum Staffing Requirements

A. School Based Health Centers shall have one or more primary care providers on staff, including a:

- a. physician;
- b. physician assistant; or
- c. nurse practitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§9133. Staffing Qualifications for Mental Health Services

A. Mental health services rendered in Medicaid-enrolled SBHCs shall be provided by the following licensed, professional staff:

1. psychiatrists;
2. psychologists;
3. clinical nurse specialists;
4. nurse practitioners;
5. licensed clinical social workers; or
6. licensed professional counselors.

B. Professionals providing mental health services must:

1. be licensed and provide services under the provisions and scope of their Louisiana Practice Act;
2. be enrolled in Louisiana Medicaid and linked to the SBHC where services are rendered; and
3. adhere to any additional training or educational requirements in the mental health area as set forth in Medicaid SBHC policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Reimbursement

§9141. Reimbursement Methodology

A. Medicaid reimbursement is limited to medically necessary services that are covered by the Medicaid State Plan.

B. Medicaid covered services provided by SBHCs shall be reimbursed at the lower of either:

1. the provider's billed charges minus any third party coverage; or
2. the state's established schedule of fees for the service rendered, minus any third party coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Emergency Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

State Children's Health Insurance Program—Coverage of Prenatal Care Services (LAC 50:III.20301-20305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.20301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a Medicaid expansion program under the provisions of Title XXI of the Social Security Act called the Louisiana Children's Health Insurance Program (LaCHIP) (*Louisiana Register*, Volume 24, Number 10). LaCHIP provided health care coverage to uninsured children up to age 19 with family income below 133 percent of the federal poverty level (FPL). The October 20, 1998 Rule was subsequently amended to: 1) implement the second phase of LaCHIP which expanded coverage to uninsured children with family

income up to 150 percent of the FPL (*Louisiana Register*, Volume 25, Number 9); and 2) implement the third phase which expanded coverage to uninsured children with family income up to 200 percent of the FPL (*Louisiana Register*, Volume 26, Number 12).

The bureau by Emergency Rule expanded coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low income, non-citizen women (*Louisiana Register*, Volume 33, Number 5). The department now proposes to amend the provisions of the May 1, 2007 Emergency Rule to place these provisions in the appropriate place in the *Louisiana Administrative Code*. This action is being taken to promote the health and well-being of children by increasing access to prenatal care services in order to reduce the occurrence of premature deliveries and costly emergency care for drop-in deliveries.

Effective December 29, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the May 1, 2007 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program

Chapter 203. Prenatal Care Services

§20301. General Provisions

A. Effective May 1, 2007, the Department of Health and Hospitals will provide State Children's Health Insurance Program (SCHIP) coverage of prenatal care services to low income, non-citizen women as an expansion of coverage for children under Title XXI of the Social Security Act. SCHIP coverage of prenatal care services will be an expansion of coverage for children, from conception to birth, with income from 0 percent through 200 percent of the federal poverty level (FPL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§20303. Eligibility Criteria

A. An applicant must be a Louisiana resident and cannot be eligible for Medicaid benefits under the provisions of Title XIX of the Social Security Act.

B. Applicants must be uninsured at the time of application.

1. Applicants are considered to be uninsured if they do not have creditable health insurance that provides coverage of prenatal care services.

C. Recipients must have family income at or below 200 percent of the FPL.

D. Recipients cannot be covered under a group health insurance plan or have creditable health insurance coverage and cannot have access to a state employee health benefits plan.

1. A state employee health benefits plan is a plan that is offered or organized by the state government, or on behalf of state employees, or other public agency for employees within the state.

E. Recipients shall be eligible to receive SCHIP coverage of prenatal care services from the month of conception or the first month of eligibility following conception, whichever is later, through the month of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

§20305. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. inpatient and outpatient health care services;
2. physician services;
3. surgical services;
4. clinic and other ambulatory health care services;
5. prescription and over-the-counter medications;
6. laboratory and radiological services;
7. pre-natal care and pre-pregnancy family services and supplies;
8. inpatient and outpatient mental health services other than those services relative to substance abuse treatment;
9. durable medical equipment and other medically-related or remedial devices;
10. disposable medical supplies;
11. nursing care services;
12. extended dental services for pregnant women;
13. case management services;
14. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;
15. medical transportation services; and
16. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

B. Service Limits. Sterilization procedures are not a covered service in this program. Other Medicaid-specific benefit limits, age limits and prior authorization requirements may be applicable to the services covered in this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#086

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Children's Choice—Direct Support Professionals Wage Enhancement (LAC 50:XXI.12101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for the Children's Choice Waiver (*Louisiana Register*, Volume 28, Number 9). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the September 20, 2004 Rule governing the reimbursement methodology for the Children's Choice Waiver to implement an hourly wage pass-through payment to providers for direct care staff. The department amended the provisions of the February 9, 2007 Emergency Rule to also include a wage pass-through, hereafter referred to as a wage enhancement, payment for direct support professionals who provide Center-Based Respite services to Children's Choice recipients (*Louisiana Register*, Volume 33, Number 5). The department amended by Emergency Rule the February 9, 2007 and May 20, 2007 Emergency Rules to further clarify the provisions governing the wage enhancement payment (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2007 Emergency Rule.

This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective January 19, 2008, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions governing the reimbursement methodology for the Children's Choice Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - B.4. ...

5. Direct Support Professionals Wage Enhancement

a. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct

support professionals who provide family support services to children's choice recipients.

b. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide center-based respite services to children's choice recipients.

c. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

d. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

e. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

i. gross wage paid to the direct support professional(s);

ii. total number of direct support hours worked; and

iii. the amount paid in employee benefits.

f. A separate report shall be submitted for paid overtime.

g. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

h. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

i. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

j. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

i. forfeiture of eligibility for wage enhancement payments;

ii. recoupment of previous wage enhancement payments;

iii. Medicaid fraud charges; and

iv. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this

Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#087

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver—Direct Support Professionals Wage Enhancement (LAC 50:XXI.14101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services implemented a new home and community based services waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the June 20, 2004 Rule governing the reimbursement methodology for the New Opportunities Waiver to implement a wage pass-through payment for direct support professionals who provide Individual and Family Support Services to NOW recipients (*Louisiana Register*, Volume 33, Number 2). The department amended the provisions of the February 9, 2007 Emergency Rule to also include a wage pass-through payment, hereafter referred to as a wage enhancement, for direct support professionals who provide day habilitation, supported employment, employment-related training and center-based respite services to NOW recipients (*Louisiana Register*, Volume 33, Number 5). The department amended the February 9, 2007 and May 20, 2007 Emergency Rules to further clarify the provisions governing the wage enhancement payment (*Louisiana Register*, Volume 33, Number 09). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2007 Emergency Rule. This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective January 19, 2008, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions governing the reimbursement methodology for the New Opportunities Waiver.

Title 50 PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Direct Support Professionals Wage Enhancement.

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Individual and Family Support Services to New Opportunities Waiver recipients.

2. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to New Opportunities Waiver recipients:

- a. day habilitation;
- b. supported employment;
- c. employment-related training; and
- d. center-based respite.

3. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

4. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

5. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

6. A separate report shall be submitted for paid overtime.

7. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

8. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

9. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

10. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;

- c. Medicaid fraud charges; and
- d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#089

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Supports Waiver—Direct Support Professionals Wage Enhancement (LAC 50:XXI.6101)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.Chapter 61 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities implemented a home and community-based services waiver, the supports waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9). The department promulgated an Emergency Rule to amend the provisions of the September 20, 2006 Rule governing the reimbursement methodology for the supports waiver to implement a wage enhancement payment to providers for direct support professionals (*Louisiana Register*, Volume 33, Number 5) and amended the May 20, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment (*Louisiana Register* Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2007 Emergency Rule. This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain

sufficient direct care staff to assure continued access to services.

Effective January 18, 2008, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities amends the provisions governing the reimbursement methodology for the supports waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services

Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

I. Direct Support Professionals Wage Enhancement.

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to support waiver recipients:

- a. habilitation;
- b. supported employment;
- c. day habilitation;
- d. center-based respite; and
- d. prevocational services.

2. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;

- c. Medicaid fraud charges; and
- d. disenrollment from the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#090

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Home and Community-Based Services Waivers—Elderly and Disabled Adults Waiver—Direct Service Professionals Wage Enhancement (LAC 50:XXI.9101)

The Department of Health and Hospitals, Office of Aging and Adult Services adopts LAC 50:XXI.Chapter 91 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the Elderly and Disabled Adults (EDA) Waiver (*Louisiana Register*, Volume 28, Number 9). The bureau promulgated an Emergency Rule to adopt a reimbursement methodology for the EDA Waiver and provisions to implement an hourly wage pass-through, hereafter referred to as a wage enhancement, payment to providers for direct care staff (*Louisiana Register*, Volume 33, Number 2). The department amended by Emergency Rule the February 9, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2007 Emergency Rule.

This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective January 19, 2008, the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult

Services amends the provisions governing the reimbursement methodology for the Elderly and Disabled Adults Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 91. Reimbursement

§9101. Reimbursement Methodology

A. Reimbursement for EDA Waiver services shall be a prospective flat rate for each approved unit of service provided to the recipient.

B. Direct Support Professionals Wage Enhancement.

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide home and community-based waiver services to Medicaid recipients. Direct support professionals are persons who deliver direct care services such as assistance with the activities of daily living.

a. At least 75 percent of the wage enhancement shall be paid in the aggregate to the direct support professionals as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

2. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers are subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#088

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office of Aging and Adult Services

Personal Care Services—Long Term Personal Care Workers Wage Enhancement (LAC 50:XV.12917)

The Department of Health and Hospitals, Office of Aging and Adult Services amends LAC 50:XV.12917 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing the coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register*, Volume 29, Number 6). The Department of Health and Hospitals, Office of Aging and Adult Services promulgated an Emergency Rule to amend the provisions of the June 20, 2003 Rule governing the reimbursement methodology for personal care services to implement an hourly wage pass-through, hereafter referred to as a wage enhancement, payment to providers for personal care workers (*Louisiana Register*, Volume 33, Number 2). The department amended the February 9, 2007 Emergency Rule to further clarify the provisions governing the wage enhancement payment (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2007 Emergency Rule. This action is being taken to promote the health and well-being of Medicaid recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective January 19, 2008, the Department of Health and Hospitals, Office of Aging and Adult Services continues the provisions of the September 20, 2007 Emergency Rule

governing the reimbursement methodology for personal care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12917. Reimbursement Methodology

A. ...

B. Personal Care Workers Wage Enhancement

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) personal care workers who provide services to Medicaid recipients.

a. At least 75 percent of the wage enhancement shall be paid in the aggregate to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent shall be used to pay employer-related taxes, insurance and employee benefits.

b. Effective September 20, 2007, the minimum hourly rate paid to personal care workers shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

2. Providers shall be required to submit a certified wage register to the department verifying the personal care workers' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- gross wage paid to the personal care worker(s);
- total number of personal care hours worked; and
- the amount paid in employee benefits.

3. A separate report shall be submitted for paid overtime.

4. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

5. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

6. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

7. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to personal care workers may result in:

- forfeiture of eligibility for wage enhancement payments;
- recoupment of previous wage enhancement payments;
- Medicaid fraud charges; and
- disenrollment in the Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#094

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Prosthetics and Orthotics—Reimbursement Rate Increase (LAC 50:XVII.501,1505,1707,1907,and 10117)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XVII.501 and repeals LAC 50:XVII.1505, 1707, 1907 and 10117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed and repromulgated provisions governing prosthetic and orthotic devices in the Medical Assistance Program (*Louisiana Register*, Volume 31, Number 7) The bureau amended the July 2005 Rule to repeal the reimbursement methodology for specific prosthetic and orthotic items and to increase the reimbursement rate (*Louisiana Register*, Volume 33, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 6, 2007 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients and to maintain access to orthotic and prosthetic devices by encouraging the continued participation of providers in the Medicaid Program.

Effective January 5, 2008, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for prosthetics and orthotics.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XVII. Prosthetics and Orthotics

Subpart 1. General Provisions

Chapter 5. Reimbursement

§501. Reimbursement Methodology

A. Effective for dates of service on or after September 6, 2007, the reimbursement for prosthetic and orthotic devices is 90 percent of the 2007 Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, unless otherwise stipulated. If an item is not available at 90 percent of the 2007 Medicare fee schedule amount, the flat fee that will be utilized is the lowest cost at which the item has been

determined to be widely available by analyzing usual and customary fees charged in the community.

1. This rate does not apply to prosthetics and orthotics that are:

a. already priced at a higher amount than 90 percent of the 2007 Medicare Fee Schedule; or

b. not included on the 2007 Medicare Fee Schedule, such as customized items for which there is no established fee that must be individually priced.

B. Items not listed on the Medicare Fee Schedule will continue to be priced in accordance with current policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1597 (July 2005), amended LR 33:

Subpart 3. Prothhetic Devices

Chapter 15. Artificial Eyes, Scleral Shell, and Related Services

§1505. Reimbursement

A. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Chapter 17. Breast or Mammary Prostheses

§1707. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Chapter 19. Support and Surgical Stockings

§1907. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1598 (July 2005), repealed LR 33:

Subpart 5. Orthotic Devices

Chapter 101. General Provisions

§10117. Reimbursement

A. - B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1599 (July 2005), repealed LR 33:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Roxane A. Townsend, M.D.
Secretary

0712#095

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Board of Private Security Examiners

Registration, Training, and Uniforms
(LAC 46:LIX.301, 405, and 701)

The Board of Private Security Examiners hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted to the Board by R.S. 37:3270 et seq., hereby adopts the following Emergency Rule.

This Emergency Rule is necessary to ensure that security officers obtain proper identification within 20 days of issuance of permanent registration and that they also wear appropriate uniform identification. Recent circumstances necessitate the need for security guards to be readily identified, not only for their safety but for safety of police officers and the general public. This Emergency Rule, effective December 10, 2007, shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIX. Private Security Examiners

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. - F. ...

G. Licensee shall cut off the portion of the application identified as "temporary registration card," have the applicant complete required information, and instruct applicant to carry temporary registration card at all times while on duty. Temporary registration card is valid until applicant receives a permanent registration card from the board. The licensee or company, as the case may be, shall have 20 calendar days to issue the permanent card to the security officer once it has been received.

H. - K.4.c. ...

d. 9mm semiautomatic and shotgun;

e. - k. ...

l. 9mm semiautomatic and baton;

m. - q. ...

r. 45 caliber semiautomatic.

K.5. - P.2 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:753 (December 1987), amended LR 15:12 (January 1989), LR 15:848 (October 1989), LR 18:191 (February 1992), LR 23:588 (May 1997), LR 26:1072 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1599 (July 2005), LR 34:

Chapter 4. Training

§405. Firearms Training

A. - E.4. ...

5. 40 caliber semiautomatic weapon, minimum 4 inch barrel;

6. 45 caliber semiautomatic weapon, minimum 4 inch barrel, double action;

7. single action semiautomatic weapons are prohibited.

F. - H.1. ...

2. The shotgun course of fire shall be:

a. buckshot phase: recommend use of 9-pellet "OO" buckshot (may be fired with any buckshot);

b. 25 yards (5 rounds buckshot), total time: 35 seconds:

i. on command, assembly load two rounds of buckshot from shoulder and come to "ready gun position." Officer will have three additional rounds of buckshot on his/her person;

ii. on command, officer will fire two rounds from the shoulder (standing), then combat load three and fire three rounds from the shoulder (kneeling);

c. 15 yards (5 rounds buckshot), total time: 25 seconds:

i. officer will start with five rounds of buckshot on their person and an empty shotgun;

ii. on command, the officer will combat load five rounds of buckshot and fire two rounds from the shoulder (standing);

iii. officer will then cover target;

iv. on command, fire one round from the shoulder (standing) in two seconds;

v. on command, fire one round from the shoulder (standing) in two seconds;

vi. on command, fire one round from the shoulder (standing) in two seconds;

d. target: B-27 or P.O.S.T. qualification (P-1);

e. score: One point for hit on black of B-27 target. One point for hit on green of P-1 target:

i. total score should equal 75 percent with or without the slug phase.

I. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270, et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:755 (December 1987), amended LR 15:13 (January 1989), LR 15:850 (October 1989), LR 18:192 (February 1992), LR 23:588 (May 1997), LR 26:1073 (May 2000), LR 27:1241 (August 2001), LR 28:2204 (October 2002), LR 31:1600 (July 2005), LR 34:

Chapter 7. Insignias, Markings, Restrictions, Uniforms

§701. Restrictions

A. - B. ...

C. Effective January 1, 2008, all uniforms worn by security officers shall contain the name of the company for whom they are employed. Effective July 1, 2008, all outerwear worn by security officers shall contain the name of the company for whom they are employed.

D. All requests for plain clothes security officers shall be made to the board and approval in writing from the board must first be obtained prior to any security officer being allowed to work an assignment out of uniform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:758 (December 1987), amended LR 15:14 (January 1989), LR

15:852 (October 1989), LR 18:195 (February 1992), LR 26:1074 (May 2000), LR 34:

Wayne R. Rogillio
Executive Secretary

0712#072

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

CCAP—Child Care Assistance Program
(LAC 67:III.5107)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the Louisiana Administrative Code, Title 67:III, Subpart 12 Chapter 51, Subchapter B, Child Care Providers, §5107. This Emergency Rule shall be effective November 30, 2007, and shall remain in effect for a period of 120 days.

Currently, an individual or a Family Child Day Care Home provider who resides with or employs a person who has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C. could become a CCAP provider if approved in writing by a district judge of the parish and the local district attorney. However, state law does not allow such exceptions.

Section §5107 is being amended to comply with state law so that an individual will no longer be able to be a CCAP provider if a required criminal background check is not clear, even if approved in writing by a district judge of the parish and the local district attorney.

Emergency rulemaking is needed because the current Louisiana Administrative Code is contradictory to state law.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter B. Child Care Providers

§5107. Child Care Provider

A. - E. ...

F. Under no circumstances can the following be considered an eligible CCAP provider:

1. - 4. ...

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C);

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C;

F.7. - I.2.b....

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 33:507 (March 2007), LR 34:

Ann Silverberg Williamson
Secretary

0712#012

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Rehabilitation Services**

Vocational Rehabilitation Policy Manual
(LAC 67:VII.115)

The Department of Social Services, Louisiana Rehabilitation Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the Louisiana Administrative Code 67:VI.115.

Currently, the provision of hearing aids does not require a financial needs test and no financial participation is required as a condition for furnishing this vocational rehabilitation service. This Rule redefines financial participation for the provision of hearing aids and places it under a financial needs test.

Louisiana Rehabilitation Services is invoking this Emergency Rule to avoid deficit spending and to ensure that the agency has sufficient funds to continue the provision of services to existing consumers who are in the midst of their vocational rehabilitation program and to whom the agency has committed to fund. Failure to adopt this amendment on an emergency basis will result in a financial impact which will adversely affect the availability of services and the health and welfare of existing LRS consumers currently being served by the Vocational Rehabilitation Program. This rule must become effective December 7, 2007, and it shall remain in effect for 120 days or until the final Rule takes effect through normal promulgation process, whichever is shortest.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§115. Financial

A. - A.1.c.i.(f). ...

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. - 2. ...

a. Neither a financial needs test, nor a budgetary analysis is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. - ix. ...

x. assistive technology services and devices (except hearing aids);

xi. ...

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

- i. physical restoration and/or mental restoration;
- ii. hearing aids;
- iii. maintenance;
- iv. transportation;
- v. books and supplies;
- vi. occupational tools and equipment;
- vii. cost services to other family members;
- viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc., not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. - g. ...

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i.-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

B.3. - C. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:

Ann Silverberg Williamson
Secretary

0712#076

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Income Tax Credits for Wind or Solar Energy Systems (LAC 61:I.1907)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, the Secretary of the Department of Revenue hereby adopts Emergency Rule LAC 61:I.1907 pertaining to the administration of the wind or solar energy system income tax credits allowed by R.S. 47:6030. This Rule is being adopted as an emergency rule because Act 371 requires the Department of Revenue to promulgate regulations within 90 days of the effective date of the Act. Act 371 became effective on July 10, 2007. This Emergency Rule shall be effective January 1, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered By the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions

§1907. Income Tax Credits for Wind or Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state. In order for costs associated with the purchase and installation of a wind or solar energy system to qualify for this credit, the expenditure must be made on or after January 1, 2008.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a wind or solar electric system interconnected with the utility grid in which the customer only pays the utility for the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the Louisiana Public Service Commission's and the New Orleans City Council's, as appropriate, established Net Metering rules and procedures.

Inverter—an apparatus designed to convert direct current (DC) electrical current to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Residence—a single family dwelling, one dwelling unit of a multi-family owner occupied complex, or one residential dwelling unit of a rental apartment complex. All eligible residences must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than wind or sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

Wind Energy System—a system of apparatus and equipment with the primary purpose of intercepting and converting wind energy into mechanical or electrical energy and transferring this form of energy by a separate apparatus to the point of use or storage.

C. Household Eligibility for Wind and/or Solar Energy Systems Tax Credits

1. Each residence in the state is eligible for tax credits for the number of separate complete wind, solar electric, and solar thermal energy systems necessary to ensure that the residence is supplied with all of its energy needs.

2. The credit for the purchase and installation of a wind energy system or solar energy system by a resident individual at his residence shall be claimed by the resident individual on his Louisiana individual income tax return.

3. The credit for the purchase and installation of a wind energy system or solar energy system by the owner of a residential rental apartment project shall be claimed by the owner on his Louisiana individual, corporate or fiduciary income tax return.

4. All wind or solar energy systems must be installed in the immediate vicinity of the residence claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence.

5. In order to claim a tax credit(s) for a wind energy system, solar electric energy system, or solar thermal energy system the components for each system must be purchased and installed at the same time as a system. Eligible components of systems are defined in Section D1 through D3 below.

D. Wind and Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for complete and functioning wind energy systems or solar energy systems.

2. Wind Energy Systems

a. Eligible wind energy systems under the tax credit include systems designed to produce electrical energy and systems designed to produce mechanical energy through blades, sails, or turbines and may include the following.

System Type	Eligible System Components
DC Wind Electric Generation Systems	DC output wind turbine, controllers, towers & supports, charge controllers, inverters, batteries, battery boxes, DC & AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
AC Wind Electric Generation Systems	AC output wind turbine, controllers, towers & supports, charge controllers, power conditioners/grid interconnection devices, batteries, battery boxes, AC disconnects, junction boxes, monitors, display meters, lightning and ground fault protection, and wiring and related electrical devices and supplies from generator to residence or electrical load
Mechanical Wind Systems	mechanical output wind turbine, towers & supports, mechanical interconnection between turbine and mechanical load

3. Solar Electric Systems

a. Eligible solar electric systems under the tax credit include grid-connected net metering systems, grid-connect net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC & DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

4. Solar Thermal Systems

a. Solar thermal systems eligible under the tax credit include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and solar pool heating systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Pool Solar Heating System	solar pool heating collectors, mounting systems and devices, controllers, actuators, valves, pool covers, air elimination devices, sensors, piping and other related materials from solar pool heating collectors to interconnection with pool filtration system

5. All wind and solar energy systems for which a tax credit is claimed shall include an Operations and Maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

6. All photovoltaic panels, wind turbines, inverters and other electrical apparatus claiming the tax credit must be UL listed and installed in compliance with all applicable building and electrical codes.

7. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with all applicable building and plumbing codes.

8. Applicants applying for the tax credit on any system(s) must provide proof of purchase to the Louisiana Department of Revenue detailing the following:

- a. type of system applying for the tax credit;
- b. output capacity of the system:
 - i. Solar Electric Systems—total nameplate listed kW of all installed panels;
 - ii. Solar Thermal Systems—listed SRCC annual BTU output;
 - iii. Wind Electric Systems—total rated kW of all alternators and generators;
 - iv. Wind Mechanical Systems—shaft horsepower as rated by manufacturer, licensed contractor or licensed professional engineer;
- c. physical address where the system is installed in the state;
- d. total cost of the system as applied towards the tax credit separated by:
 - i. equipment costs;
 - ii. installation costs;
- e. make and model number of generators, alternators, turbines, photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit.

E. Tax Exemption Eligibility of Certain Costs

1. Eligible Costs—eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the wind and solar energy systems defined in Subsection B and described in Subsection

D above. All installation must be performed by a contractor duly licensed by and in good standing with the Louisiana State Contractors Licensing Board, the owner of the residence, or by a person who has received certification by a technical college in the installation of such systems. Equipment costs must be in accordance with Subsections D 4, 5, 6 and 7 above.

2. Ineligible Costs—labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. Supplemental heating equipment costs used with solar collectors are not eligible for inclusion under the tax credit.

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips or any other thing of value given by the installer to the customer as an inducement to purchase an eligible wind or solar energy system.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:

Cynthia Bridges
Secretary

0712#065

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

Income Tax Schedule Requirement for Certain
Nonresident Professional Athletes and
Professional Sports Franchises (LAC: 61:I.1305)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1, the Secretary of the Department of Revenue hereby adopts emergency rule LAC 61:I.1305 pertaining to the imposition of penalties on nonresident athletes if they fail to file the proper return, IT-540B-NRA. This Emergency Rule shall be effective January 1, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 13. Income: Individual

**§1305. Income Tax Schedule Requirement for Certain
Nonresident Professional Athletes and
Professional Sports Franchises**

A. - B. ...

C. Nonresident professional athletes, if required to file an individual income tax return, must utilize Louisiana Nonresident Professional Athlete form IT-540B-NRA.

D. Based on R.S. 47:1602.1, the failure to timely make and file any return or schedule required by the secretary to administer the provisions of the Sports Facility Assistance Fund will result in a penalty of \$500 for the first such failure, \$1,000 for the second such failure within a three year period beginning on the due date of the first delinquent return, and \$2,500 for each subsequent failure within the three year period beginning on the due date of the first delinquent return.

E. Based on R.S. 47:1604.1, if any taxpayer fails to make any return or makes an incorrect return, under circumstances indicating willful negligence or intentional disregard of rules and regulations, but with no intent to defraud, shall cause a penalty to be imposed, in addition to any other penalties provided, of 5 percent of the tax or deficiency found to be due, or \$10 whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:98 (January 2002), amended LR 34:

Lester Johnson, M.D.
Chairman

0712#063

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Taxation

(LAC 61:V.101, 103, 109, 113, 118, 121, 211, 213, 301-309, 703, 901, 907, 1103, 1305, 1307, 1503, 2501, 2503, 2711, 3101, 3103, 3105, 3106, 3107, 3503 and 3515)

The Louisiana Tax Commission, at its meetings on September 19, 2007 and October 31, 2007, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2008. Cost indexes required to finalize these assessment tables are not available to this office until late October 2007. The effective date of this Emergency Rule is January 1, 2008.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

Editor's Note: Section 3503 has been moved to this Section, specifically Subsection F - F.3.h.

A. - E. ...

F. Homestead Exemptions

1. General Provisions

a. The Louisiana Constitution permits no other property tax exemptions except those provided in the Constitution.

b. The Constitution exempts to the extent of \$7,500 of assessed value:

i. The bona fide homestead, consisting of a tract of land or two or more tracts of land, even if the land is classified and assessed at use value, with a residence on one tract and a field, with or without timber on it, pasture, or garden on the other tract or tracts, not exceeding one hundred sixty acres, buildings and appurtenances, whether rural or urban, owned and occupied by any person or persons owning the property in indivision.

ii. The same homestead exemption shall also fully apply to the primary residence including a mobile home which serves as a bona fide home and which is owned and occupied by any person or persons owning the property in indivision, regardless of whether the homeowner owns the land upon which the home or mobile home is sited; however, this homestead exemption shall not apply to the land upon which such primary residence is sited if the homeowner does not own the land.

iii. The homestead exemption shall extend and apply fully to the surviving spouse or a former spouse when the homestead is occupied by the surviving spouse or a former spouse and title to it is in the name of:

(a) the surviving spouse as owner of any interest or either or both of the former spouses;

(b) the surviving spouse as usufructuary; or

(c) a testamentary trust established for the benefit of the surviving spouse and the descendants of the deceased spouse or surviving spouse, but not to more than one homestead owned by either the husband or wife, or both.

iv. The homestead exemption shall extend to property owned by a trust when the principal beneficiary or beneficiaries of the trust are the settlor or settlors of the trust and were the immediate prior owners of the homestead, and the homestead is occupied as such by a principal beneficiary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to transfer, conveyance, donation in trust, or which would have qualified for the homestead exemption if such property were not owned in trust.

v. The homestead exemption shall extend to property where the usufruct of the property has been granted to no more than two usufructaries who were the immediate prior owners of the homestead and the homestead is occupied as such by a usufructary. The provisions of this Subparagraph shall apply only to property which qualified for the homestead exemption immediately prior to the granting of such usufruct, or which would have qualified for the homestead exemption if such usufruct had not been granted.

c. The homestead exemption shall extend only to a natural person or persons and to a trust created by a natural person or persons, in which the beneficiaries of the trust are a natural person or persons provided that the provisions of this Paragraph are otherwise satisfied.

d. Except as otherwise provided for in this Paragraph, the homestead exemption shall apply to property owned in indivision, but shall be limited to the pro rata

ownership interest of that person or persons occupying the homestead. For example, a person owning a 50 percent interest in property would be entitled to a homestead exemption of \$3,750 of the property's assessed value provided such person occupies the home.

e. No homestead exemption shall be granted on bond for deed property. However, any homestead exemption granted prior to June 20, 2003 on any property occupied on December 7, 2004, by a buyer under a bond for deed contract shall remain valid as long as the circumstances giving rise to the exemption at the time the exemption was granted remains applicable.

f. In no event shall more than one homestead exemption extend or apply to any person in this state.

g. This exemption shall not extend to municipal taxes. However, the exemptions shall apply:

i. in Orleans Parish, to state, general city, school, levee, and levee district taxes; and

ii. to any municipal taxes levied for school purposes.

h. Homestead exemptions are allowable in any year in which the owner occupied the home prior to December 31 of that year.

i. Property owned by a partnership or corporation is not entitled to homestead exemption (Corporation: A.G.'s Opinion May 7, 1969, A.G.'s Opinion 1940-42, p. 4119; Partnership: A.G.'s Opinion 1936-38, p. 1044).

j. Purchase arrangement which does not transfer title does not give occupant entitlement to homestead exemption (Lease/purchase: A.G.'s Opinion 1940-42, p. 4110, and p. 4115; A.G.'s Opinion 1942-44, p. 1679; Bond for Deed: A.G.'s Opinion No. 87-345, May 12, 1987).

k. Any homestead receiving the homestead exemption that is damaged or destroyed during a disaster or emergency declared by the governor whose owner is unable to occupy the homestead on or before December 31 of a calendar year due to such damage or destruction shall be entitled to claim and keep the exemption by filing an annual affidavit of intent to return and reoccupy the homestead within five years from December 31 of the year following the disaster with the assessor within the parish or district where such homestead is situated prior to December 31 of the year in which the exemption is claimed. In no event shall more than one homestead exemption extend or apply to any person in this state.

2. The purpose of this section is to partially implement the provisions of Article VII, Section 20(B) of the Constitution of Louisiana relative to the providing of tax relief to residential lessees in order to provide equitable tax relief similar to that granted to homeowners through homestead exemptions.

a. A residential lessee is defined as a person who owns and occupies a residence, including mobile homes, but does not own the land upon which the residence is situated.

b. A residential lessee shall be entitled to a credit against any ad valorem tax imposed relative to the residence property, in an amount equal to the amount of tax applicable on property with an assessed valuation of \$7,500 or the actual amount of tax, whichever is less, provided the residential lessee is not otherwise entitled to the homestead exemption (R.S. 47:1710).

3. Residence

a. Only one homestead exemption can be claimed. (A.G.'s Opinion 1942-44, p. 1660, A.G.'s Opinion 1942-44, p. 1678, A.G.'s Opinion 1940-42, p. 4117).

b. If other requirements are met, a person may be entitled to the exemption, even if the taxpayer is a citizen of another state or country (A.G.'s Opinion 1948-50, p. 729).

c. Taxpayer does not lose the exemption by temporary absence (A.G.'s Opinion 1948-50, p. 729).

d. State employee living in another parish does not lose his entitlement if he returns to occupy the property regularly (A.G.'s Opinion 1936-38, p. 1055), and does not rent the property to another (A.G.'s Opinion 1936-38, p. 1054).

e. Army officer required to live away from home who allows relatives to occupy the property rent free does not lose his homestead exemption (A.G.'s Opinion 1940-42, p. 4088).

f. Taxpayer who establishes a second residency for political purposes does not lose the homestead exemption on his first residence (A.G.'s Opinion 86-364, Oct. 17, 1986).

g. If part of a property is used as income producing property, the part occupied by the owner as a residence is exempt, the income producing part is not (portion of home used as a place of business is not exempt, A.G.'s Opinion 1940-42, p. 4129; A.G.'s Opinion 1934-36, p. 1144; rented half of double house not exempt, A.G.'s Opinion 1934-36, p. 1138).

h. When there is more than one tract with a residence on one and a field, pasture or garden on the other, tract must actually be used as a field, pasture or garden to be eligible for exemption, taxpayer must personally use the field, pasture or garden, and, if the tract is let out to another, it is not exempt (A.G.'s Opinion 1940-42, p. 1660).

G. Special Assessment Level

1. The assessment of residential property receiving the homestead exemption which is owned and occupied by any of the following and who meet all of the other requirements of this Section shall not be increased above the total assessment of that property for the first year that the owner qualifies for and receives the special assessment level provided that such person or persons remain qualified for and receive the special assessment level:

a. people who are 65 years of age or older;

b. people who have a service-connected disability rating of 50 percent or more by the United States Department of Veterans Affairs;

c. members of the armed forces of the United States or the Louisiana National Guard who owned and last occupied such property who are killed in action, or who are missing in action or are a prisoner of war for a period exceeding 90 days; or

d. any person or persons permanently totally disabled as determined by a final non-appealable judgment of a court or as certified by a state or federal administrative agency charged with the responsibility for making determinations regarding disability.

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, as reported in the federal tax return for the year prior to the

application for the special assessment, exceeds \$62,180 for tax year 2008 (2009 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. An eligible owner shall apply for the special assessment level by filing a signed application establishing that the owner qualifies for the special assessment level with the assessor of the parish or, in the parish of Orleans, the assessor of the district where the property is located.

4. The special assessment level shall remain on the property as long as:

a. that owner, or that owner's surviving spouse who is 55 years of age or older or who has minor children, remains the owner of the property, and:

i. the owner who has a service-connected disability of 50 percent or more, or that owner's surviving spouse who is 45 years of age or older or who has minor children, remains the owner of the property;

ii. the spouse of the owner who is killed in action remains the owner of the property;

iii. the first day of the tax year following the tax year in which an owner who was missing in action or was a prisoner of war for a period exceeding 90 days is no longer missing in action or a prisoner of war; and

iv. even if the ownership interest of any surviving spouse or spouse of an owner who is missing in action as provided for in this Subparagraph is an interest in usufruct;

b. the value of the property does not increase more than 25 percent because of construction or reconstruction.

5. A new or subsequent owner of the property may claim a special assessment level when eligible under this Section. The new owner is not necessarily entitled to the same special assessment level on the property as when that property was owned by the previous owner.

6. The special assessment level on property that is sold shall automatically expire on the last day of December in the year prior to the year that the property is sold. The property shall be immediately revalued at fair market value by the assessor and shall be assessed by the assessor on the assessment rolls in the year it was sold.

7. A usufructuary is entitled to the benefit of the special assessment level attained by the prior owner/occupant, provided that either:

a. the usufructuary is the owner's surviving spouse, occupying the house, who is 55 years of age or older or who has minor children, and the value of the property does not increase more than 25 percent because of construction or reconstruction; or

b. the usufructuary is the immediate prior owner of the homestead and the homestead is occupied by such usufructuary. A usufructuary is entitled to the special assessment level freeze if and when he or she qualifies independently.

8. The special assessment level, like the homestead exemption, should be applied to the extent of a homeowner's undivided interest in the occupied property.

9. Any owner entitled to the special assessment level set forth in this Paragraph who is unable to occupy the homestead on or before December 31 of a future calendar year due to damage or destruction of the homestead caused

by a disaster or emergency declared by the governor shall be entitled to keep the special assessment level of the homestead prior to its damage or destruction on the repaired or rebuilt homestead provided the repaired or rebuilt homestead is reoccupied by the owner within five years from December 31 of the year following the disaster. The assessed value of the land and buildings on which the homestead was located prior to its damage shall not be increased above its assessed value immediately prior to the damage or destruction described in this Subparagraph. If the property owner receives a homestead exemption on another homestead during the same five-year period, the damaged or destroyed property shall not be entitled to keep the special assessment level, and the land and buildings shall be assessed in that year at the percentage of fair market value set forth in this constitution. In addition, the owner must also maintain the homestead exemption set forth in Article VII, Section 20(A)(10) to qualify for the special assessment level in this Subparagraph.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 33:502 (March 2007), LR 34:

§103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following property and no other shall be exempt from ad valorem taxation:

1. public lands; other public property used for public purposes;

2. property of a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member and which is declared to be exempt from federal or state income tax;

a. medical equipment leased for a term exceeding five years to such a nonprofit corporation or association which owns or operates a small, rural hospital and which uses the equipment solely for health care purposes at the hospital, provided that the property shall be exempt only during the term of the lease to such corporation or association, and further provided that "small, rural hospital" shall mean a hospital which meets all of the following criteria:

i. it has less than 50 Medicare-licensed acute care beds; and

ii. it is located in a municipality with a population of less than 10,000 which has been classified as an area with a shortage of health manpower by the United States Health Service;

3. property of a bona fide labor organization representing its members or affiliates in collective bargaining efforts; and

4.a. property of an organization such as a lodge or club organized for charitable and fraternal purposes and practicing the same, and property of a nonprofit corporation

devoted to promoting trade, travel, and commerce, and also property of a trade, business, industry or professional society or association, if that property is owned by a nonprofit corporation or association. The exemption should be allowed only if it is determined that the requesting organization has met all of the constitutional requirements for exemption. Assessors may request the following information from the taxpayer in order to make a determination of exemption:

- i. completed LTC Form TC-80, Application for Exemption—Real Estate Taxes;
- ii. certified copy of the articles of incorporation of the organization;
- iii. certified copy of the by-laws of the organization;
- iv. copy of the Internal Revenue Service letter granting the organization tax-exempt status;
- v. audited financial statements for the preceding three years, along with an affidavit from the organization's CPA and/or treasurer that the financial statements are true and correct;
- vi. federal tax returns filed for the preceding three years; and
- vii. affidavit from the president or other duly appointed officer stating:

(a). the price paid for each share of stock issued by the organization for the past five years;

(b). whether or not over the previous five years any dividends have been paid or interest accrued on the value of the stock of the organization; and

(c). whether or not any part of the net earnings of the organization inure to the benefit of any member of the organization.

NOTE: See Louisiana Constitution of 1974, Article VII, Section 21.B, for specific conditions of authorization.

b. None of the property listed in §103.A.2, 3, and 4 shall be exempt if owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association;

5. cash on hand or deposit;
6. stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution;
7. obligations secured by mortgage on property located in Louisiana and the notes or other evidence thereof;
8. loans by life insurance companies to policyholders, if secured solely by their policies;
9. the legal reserve of domestic life insurance companies;
10. loans by a homestead or building and loan association to its members, if secured solely by stock of the association;
11. debts due for merchandise or other articles of commerce or for services rendered;
12. obligations of the state or its political subdivisions;
13. personal property used in the home or on loan in a public place;
14. irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;
15. agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes (including crop dusting aircraft), animals on the farm, and property belonging to an agricultural fair association (also see R.S. 47:1707);

16. property used for cultural, Mardi Gras carnival, or civic activities and not operated for profit to the owners;

17. rights-of-way granted to the State Department of Highways (DOTD);

18. boats using gasoline as motor fuel;

19. commercial vessels used for gathering seafood for human consumption;

20. ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports:

a. however, this exemption shall not apply to harbor, wharf, shed, and other port dues or to any vessel operated in the coastal trade of the states of the United States;

21. materials, boiler fuels, and energy sources used by public utilities to fuel the generation of electricity;

22. all incorporeal movables of any kind or nature whatsoever, except public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies. (See Louisiana Civil Code of 1870, as amended, and R.S. 47:1709).

B. Also exempt are raw materials, goods, commodities, articles and personal property imported into this state from outside the states of the United States or, held in storage while in transit through this state which are moving in interstate commerce.

NOTE: See Louisiana Constitution, Article VII, Section 21.D; and, R.S. 47:1951.1, R.S. 47:1951.2 and R.S. 47:1951.3 for specific conditions of authorization.

1. Property described in §103.B, whether or not entitled to exemption, shall be reported to the proper taxing authorities on the forms required by law.

C. Motor vehicles used on the public highways of this state, from state, parish, municipal, and special ad valorem taxes.

D. New manufacturing establishments and additions to existing manufacturing establishments to be granted tax exemptions by the State Board of Commerce and Industry, with the approval of the Governor, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974.

E. Coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes.

F. Value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the State Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974.

G. Goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998), LR 32:426 (March 2006), LR 34:

§109. Fair Market Value Defined

Fair Market Value—the price for property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances; it shall be the highest price estimated in terms of money which property will bring if exposed for sale on the open market with reasonable time allowed to find a purchaser who is buying with knowledge of all the uses and purposes to which the property is best adapted and for which it can be legally used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 34:

§113. Assessments: General Information

A. Assessment Date. Assessments shall be made on the basis of the condition of things existing on the first day of January of each year (R.S. 47:1952). For purposes of determining exemptions in Orleans Parish, the status of property as of August 1 of each year shall be determinative.

B. Domicile. All property subject to taxation, including merchandise or stock in trade, shall be placed upon the assessment lists in the respective parishes or districts where situated. Personal property acquires a situs at the domicile of the holder or owner, but tangible personal property used continuously in any other taxing district may acquire a tax situs there.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:

§118. Data Collection by the Assessor

A. The assessor may use self-reporting forms, as approved and adopted by the Louisiana Tax Commission or its successors, to gather data necessary to determine fair market value. A self-reporting form shall be returned to the assessor by the first day of April, or 45 days after receipt, whichever is later (R.S. 47:2324).

B. By failing to file a report when it is due, a property owner loses the right to appeal the appraisal by the assessor (R.S. 47:2329). If the failure to file is intentional, a penalty of 10 percent of the tax due shall be imposed (R.S. 47:2330(A)). If a taxpayer files a false report with the intent to defraud, a penalty of 10 percent of the tax due shall be imposed (R.S. 47:2330(A)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2324, R.S. 47:2329 and R.S. 47:2330.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 15:1097 (December 1989), amended LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:

§121. Reappraisal

A. Real property, as defined in R.S. 47:2322, shall be reappraised and reassessed at least every four years.

B. Personal property, as defined in R.S. 47:2322, shall be reappraised and reassessed every year.

C. Incorporeal real or immovable property, as defined in R.S. 47:2322 and R.S. 47:1702, shall be reappraised and reassessed at least every four years.

D. Taxable intangible public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies, per R.S. 47:1709 or incorporeal personal or movable property, as defined in R.S. 47:1702, shall be reappraised and reassessed every year.

E. Public service property, as defined in R.S. 47:1851, shall be reassessed every year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:

Chapter 2. Policies and Procedures for Assessment and Change Order Practices

§211. Industrial Exemption Properties

A. All property of manufacturing establishments with contracts for the exemption from ad valorem taxes with the State Board of Commerce and Industry or its successor, with the approval of the governor and administered by the Department of Economic Development (DED), shall be listed on the parish exempt rolls, until such time as the exempted contract has expired or is terminated.

B. Assessors' offices shall review all Industrial Exemption applications and DED contracts issued to determine proper exempt status for ad valorem taxation purposes.

1. If an assessor determines that any portion of an Industrial Exemption is not eligible for ad valorem tax exemption, pursuant to Article VII, Section 21(F) of the Louisiana Constitution of 1974 and rules of the Industrial Tax Exemption Program, the assessor shall informally address concerns to the DED Manager of the Industrial Tax Exemption Program. If informal communication does not satisfactorily answer the assessor's concerns, formal notice shall immediately be submitted to DED, with written ineligibility reasons given.

2. All contract status reports submitted to the assessors' offices by DED and the taxpayer's annual LAT 5-A reports shall be reviewed for accuracy. Any inaccuracies noted shall be reported, in writing, to DED immediately upon discovery.

3. Assessors' offices shall review and confirm contract expiration dates and immediately notify DED, in writing, of any disparity identified.

4. If any exempted manufacturing business is determined to have ceased its operations (business closed) during a contracted exemption period, the assessors' office should provide notice to DED of such cessation.

5. Assessors are urged to obtain rules for the Industrial Tax Exemption Program available at www.lded.state.la.us/come-to-louisiana/business-resources/state-business-incentives/industrial-tax-exemption-program.aspx or by contacting DED's Business Incentives Division.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 21(F).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:702 (March 2005), amended LR 32:427 (March 2006), LR 34:

§213. Assessment Policies and Procedures

A. All property within the state of Louisiana shall be assessed at Fair Market Value or Use Value, as the law provides, and either placed on the regular tax rolls, exempt rolls, or adjudicated tax rolls.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18, R.S. 47:1703, R.S. 47:1703.1, R.S. 47:1703.C., R.S. 47:1837, R.S. 47:1951, R.S. 47:1952, R.S. 47:1953, R.S. 47:1955, R.S. 47:1956, R.S. 47:1957, R.S. 47:1959, R.S. 47:1961, R.S. 47:1971, R.S. 47:1972, R.S. 47:2306, R.S. 47:2323, R.S. 47:2324, R.S. 47:2325, R.S. 47:2329, R.S. 47:2330 and R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 34:

Chapter 3. Real and Personal Property

§301. Definitions

Composite Multiplier—a factor obtained by multiplying the cost index for the base year times percent good.

Depreciation—a loss in value from all causes of a property having a limited economic life.

Economic Life—the estimated period over which it is anticipated that a property may be profitably used.

External (Economic) Obsolescence—loss in value due to causes outside the property and independent of it, and not included in physical deterioration.

Effective Age of a Property—its age compared with other properties performing like functions. It is the actual age less the age which has been taken off by facelifting, structural reconstruction, removal of functional inadequacies, modernization of equipment, etc. It is an age which reflects a true remaining life for the property, taking into account the typical life expectancy of buildings or equipment of its class and usage. It is a matter of judgment, taking all factors into consideration.

Extended Life Expectancy—the increased life expectancy due to seasoning and proven ability to exist. Just as a person will have a total normal life expectancy at birth which increases as he grows older, so it is with structures and equipment.

Fair Market Value—the price for property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances; it shall be the highest price estimated in terms of money which property will bring if exposed for sale on the open market with reasonable time allowed to find a purchaser who is buying with knowledge of all the uses and purposes to which the property is best adapted and for which it can be legally used.

Functional Obsolescence—the impairment of functional capacity or efficiency, a loss in value, brought about by such factors as overcapacity, inadequacy, and changes in the art that affect the property item itself or its relation with other items composing a larger property.

Inventory—raw materials, work in process, finished goods or supplies.

Non-Operating or Non-Utility Property—property owned by a public service company used for purposes other than the normal operation of that public service company. See §2901, Public Service Properties section for further details.

Percent Good—an estimate of the value of a property, expressed as a percentage of its replacement costs, after depreciation of all kinds has been deducted.

Physical Depreciation—depreciation arising solely from a lowered physical condition of the property or a shortened life span as the result of ordinary use, abuse, and action of the elements.

Physical Deterioration—a loss in value due to ordinary wear and tear and the forces of nature.

Remaining Life—the normal remaining life expectation. It is the length of time the structure or equipment may be expected to continue to perform its function economically.

Rules and Regulations of the Tax Commission—guidelines and procedures adopted which establish criteria to be applied uniformly in determining fair market value, use value and/or assessed value as stated in the section applicable to a particular type or class of property.

1. Nothing adopted as a rule or regulation of the Tax Commission can supersede the constitutional directive that property be appraised at fair market value or use value as defined by law.

Three Approaches to Value—

1. *Market Approach*—the process in which the market value estimate is predicated upon prices paid in actual market transactions and current listings.

2. *Cost Approach*—the process in which the value of a property is derived by estimating the replacement or reproduction cost of the improvements; deducting therefrom the estimated depreciation; and then adding the market value of the land, if any.

3. *Income Approach*—the process in which the anticipated net income is processed to indicate the capital amount of the investment which produces the net income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1853 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:77 (February 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 10:16 (January 1984), LR 13:763 (December 1987), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 32:427 (March 2006), LR 34:

§303. Real Property

A. In making appraisals of residential, commercial and industrial land and improvements, the assessors shall use the three nationally recognized approaches to value, those being cost, income and market, where each is applicable.

1. When applying the cost approach, each assessor shall be responsible for obtaining and keeping an updated Residential Cost Handbook and Marshall Valuation Service, published by Marshall and Swift, and shall use the building cost index and local multipliers as of the assessment valuation date.

2. The market approach may be used in appraisals of improvements and/or land. The income approach may be used in appraisals of improvements and/or land in use. The cost approach may be used only in appraisals of improvements.

B. The following procedure shall be used for assessing, listing and placing transferred property and property upon which improvements have been made after the date of the reappraisal as set by the Tax Commission:

1. Improvements shall be added to the rolls based upon the condition of things existing on January 1 of each year (except Orleans Parish). New improvements for Orleans Parish shall be added to the next year's tax roll, based upon the condition of things existing on August 1 of

each year. Value of the improvements will be indexed to the date of the last reappraisal.

2. The assessor may reappraise property based on property transfers more often than every four years, if transfers indicate that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the prior reappraisal. However, the reappraisal shall not be applied on a parcel by parcel basis, but rather, across the board in a given geographical area. Values determined from recent transfers would then be indexed to the date of the last reappraisal.

C. The Louisiana Tax Commission has ordered all property to be reappraised for the 2008 tax year in all parishes. All property is to be valued as of January 1, 2007.

D. The annual ratio studies of the Tax Commission will be indexed to the date of the last reappraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:

§305. Real Property Report Forms

A. If an assessor chooses to use the self-reporting form, as approved, adopted and provided by the Louisiana Tax Commission or its successor, he shall furnish the appropriate self-reporting form for real property to each property owner within his respective parish or district, on or before February 15, in the year in which the property is to be appraised.

1. LAT 1, the Residential or Homeowner's Report Form, is to be used by the owner reporting any property that consists of land with improvements, whether urban or rural, and used for residential purposes. Space is also provided on this form to report improvements other than residences such as barns, sheds, storage bins, etc. This form is also to be used by the owner of any improvement that is located on land owned by someone other than the owner of the improvement.

2. LAT 2, the Land Report Form, is to be furnished to the owner of any parcel of vacant land. This form is also to be furnished, in addition to the Residential or Homeowner's Report Form, to each landowner with at least three acres of land, or with land that has produced an average gross annual income of at least \$2,000 in one or more of the designated classifications for the four preceding years. The Land Report Form is not the application form for use value assessment. It is, however, to be used to serve notice of the requirements for obtaining a use value assessment.

3. LAT 3, the Apartment Report Form, in addition to the Land Report Form, is to be used by the owner of any apartment or residential complex that is not applicable to LAT 1. If the land upon which the apartment is located is not owned by the apartment owner, the Land Report Form is not required to be sent to the apartment owner.

4. LAT 4, the Commercial and Industrial Report Form, is to be furnished to and used by the owner of any improvement of a commercial or industrial type.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2324.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:358 (November 1976), amended LR 7:185 (April 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 12:36 (January 1986), LR 13:187 (March 1987), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:

§307. Personal Property Report Forms

A. The appropriate self-reporting Personal Property Report Form, as approved and adopted by the Louisiana Tax Commission or its successor, is to be forwarded each year, on or before February 15 in the year in which the property is to be appraised, to each person in whose name the property is assessed. Each property owner receiving a form, with the exception of the parish of Jefferson, shall fill out the form and return it to the assessor by the first day of April of that year or 45 days after receipt, whichever is later. In the parish of Jefferson each property owner receiving a form shall fill out the form and return it to the assessor within 45 days after receipt. Upon written request, the assessor may grant an extension of time in which to file, not to exceed 30 days.

1. LAT Form 5, Personal Property Report Form, should be furnished to all individuals, partnerships, corporations, associations, etc., engaged in business and owning personal property. After receiving completed personal property report forms from any business that has consigned merchandise, or leased, loaned or rented equipment, another LAT Form 5 should be sent to those companies owning such property. Service station owners and all oil and gas related businesses should refer to the oil and gas properties section (§903) for specific instructions on completion of this form.

2. LAT Form 5A, Tax Exemption Analysis Form, should be furnished, in addition to LAT Form 5, to all manufacturers with active tax exemption contract(s) under Article VII, Section 21(F) of the Louisiana Constitution.

3. LAT Form 6, Loan and Finance Companies Form, should be furnished to all loan and finance companies doing business in the parish or taxing district.

4. LAT Form 7, Cellular Industry Form, should be furnished to all cellular industry companies doing business in the parish or taxing district.

5. LAT Form 8, Cable TV Industry Form, should be furnished to all cable television industry companies doing business in the parish or taxing district.

6. LAT Form 11, Watercraft Form, should be sent to owners of watercraft domiciled in the parish and to all owners operating watercraft out of the parish on the assessment date. This form should be used as a supplement to LAT Form 5 for companies that own such property but are not interstate towing or barge line companies, whose watercraft are assessed by the Tax Commission as public service properties.

7.a. LAT Form 11A, Watercraft-Outer Continental Shelf Waters Form, shall be furnished to all corporations, partnerships, sole proprietorships, joint ventures, partners in commendam, limited liability partnerships, limited liability corporations or individuals engaged in outer continental shelf waters operations, who shall submit said report form as follows:

- i. local parish assessor;
- ii. Department of Revenue and Taxation Secretary (pursuant to Act 59 of 1994); and
- iii. local tax collector.

b. All forms shall bear original signatures by the applicable taxpayer for certification purposes.

8. LAT Form 12, Oil and Gas Property Form, should be sent to any company, business or individual having such property in the parish or taxing district. Refer to the oil and gas properties Section (§903) for specific instructions on completion of this form.

9. LAT Form 13, Drilling Rig and Related Equipment Form, should be sent, in addition to LAT Form 5, to any company, business or individual having such property in the parish or taxing district. Refer to the drilling rigs and related equipment Section (§1101) for specific instructions on completion of this form.

10. LAT Form 14, Pipelines Form, should be furnished to all companies owning and/or operating pipelines other than pipelines which are assessed as public service properties by the Tax Commission. This form is considered to be a supplement to LAT Form 5 and LAT Form 12. Refer to the pipelines Section (§1301) for specific instructions on completion of this form.

11. LAT Form 15, Aircraft Form, should be furnished to all individuals, partnerships, corporations, associations, etc., owning and/or operating an aircraft in Louisiana as of the assessment date. This form is considered to be a supplement to LAT Form 5. Refer to the aircraft Section (§1501) for specific instructions on completion of this form.

B. Forms Related Notations

1. The assessor shall request and receive additional information, if needed, to determine fair market value under the authority of R.S. 47:1957 and as otherwise provided by law.

2. Failure to submit required forms is a waiver of the right to appeal assessed value (R.S. 47:1992(C) and (F), R.S. 47:2329) and, may result in a penalty (R.S. 47:2330(B)).

3. False or fraudulent reporting may result in a penalty (R.S. 47:2330(A)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Tax Commission, LR 2:358 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 21:186 (February 1995), LR 34:

§309. Tax Commission Miscellaneous Forms

A. TC Form 8, Agreement to Suspend Subscription of Ad Valorem Tax Form, should be used when audit or other circumstances deem it appropriate.

B. TC Form 9, Insurance Companies Form, should be sent to all property and casualty insurance companies, both foreign and domestic, licensed to write insurance in Louisiana.

C. TC Form 33, Abstract of Assessments Form, shall be annually completed and furnished to the Tax Commission by each parish assessor on or before the filing of the parish assessment rolls for certification by the Tax Commission.

D. TC Forms CO1, CO2, CO3, CO4A and CO4B, should be used to electronically process change order requests submitted by tax assessor's offices.

1. All change order forms TC-21, Alpha4 (Electronic), and/or LTC web site format shall be submitted in accordance with the provisions of Title 47, Sections 1835, 1966, 1990 and 1991. The assessor shall provide each affected taxpayer with a copy of any change order that has been issued.

E. TC Form 65, Application For Special Assessment Level, should be used by certain eligible persons, sixty-five (65) years of age or older, to apply for the special assessment level in accordance with R.S. 47:1712. This form is publicly available on the Louisiana Tax Commission's official website at www.latax.state.la.us.

F. TC Form 75, Homestead Exemption Affidavit shall be used by those persons who may be eligible for the Homestead Exemption pursuant to §3505 of these Rules. This form is publicly available on the Louisiana Tax Commission's official website at www.latax.state.la.us.

G. TC Form 80, Application For Exemption - Real Estate Taxes, may be used for exemption clarification in a case of a protest/appeal to the Tax Commission.

H. TC Form TC-TU01-A, Tulane Non-Exempt Property Report.

I. TC Form TC-TU01-B, Tulane Non-Exempt Property Report of the Pre-Exemption Property Values.

J. TC Form TC-TU02, Tulane University Exemption Allocation Report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1712, R.S. 47:1835, R.S. 47:1837, R.S. 47:1966, R.S. 47:1990, R.S. 47:1991 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002), LR 30:487 (March 2004), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	94	.93
2006	1.040	2	87	.90
2005	1.088	3	80	.87
2004	1.170	4	73	.85
2003	1.210	5	66	.80
2002	1.231	6	58	.71
2001	1.238	7	50	.62
2000	1.249	8	43	.54
1999	1.271	9	36	.46
1998	1.275	10	29	.37
1997	1.286	11	24	.31
1996	1.307	12	22	.29
1995	1.327	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	97	.96
2006	1.040	2	93	.97
2005	1.088	3	90	.98
2004	1.170	4	86	1.01
2003	1.210	5	82	.99
2002	1.231	6	78	.96
2001	1.238	7	74	.92
2000	1.249	8	70	.87
1999	1.271	9	65	.83
1998	1.275	10	60	.77
1997	1.286	11	55	.71
1996	1.307	12	50	.65
1995	1.327	13	45	.60
1994	1.374	14	40	.55
1993	1.413	15	35	.49
1992	1.441	16	31	.45
1991	1.458	17	27	.39
1990	1.487	18	24	.36
1989	1.527	19	22	.34
1988	1.609	20	21	.34
1987	1.678	21	20	.34

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. - D. ...

E. Assessment of Multiple Completion (Dual) Wells

1. All Zones Producing—assess deepest production depth at full schedule value and shallower production depth(s) at 50 percent of full schedule value.

2. Only 1 Zone Producing—assess production depth only at full schedule value.

3. No Zones Producing—assess both depths at shut-in schedule value.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December

1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 34:

§907. Tables—Oil and Gas

A. The Cost-New schedules below cover only that portion of the well subject to ad valorem taxation. External (economic) and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, external (economic) and/or functional obsolescence shall be included in the assessor's determination of fair market value.

Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and

Procedure for Arriving at Assessed Value

1. Determine if well is located in Region 1 by reference to Table 907.B-1. See note for Region 2 or Region 3 (offshore state waters) wells.
2. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.
3. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.
4. Use Oil cost-new to assess all active service wells for region where located.
5. See explanations in Section 901.E regarding the assessment of multiple completion wells.
6. For wells recompleted, use new perforation depth to determine fair market value.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	28.95	101.28	4.34	15.19
1,250-2,499 ft.	26.12	74.48	3.92	11.17
2,500-3,749 ft.	20.53	49.32	3.08	7.40
3,750-4,999 ft.	28.39	49.15	4.26	7.37
5,000-7,499 ft.	33.40	47.97	5.01	7.20
7,500-9,999 ft.	73.22	64.66	10.98	9.70
10,000-12,499 ft.	213.52	78.44	32.03	11.77
12,500-14,999 ft.	N/A	118.44	N/A	17.77
15,000-Deeper ft.	N/A	135.05	N/A	20.26

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	222.50	100.62	33.38	15.09
1,250-2,499 ft.	76.83	167.24	11.52	25.09
2,500-3,749 ft.	75.02	133.34	11.25	20.00
3,750-4,999 ft.	66.14	106.67	9.92	16.00
5,000-7,499 ft.	90.35	121.16	13.55	18.17
7,500-9,999 ft.	123.26	126.85	18.49	19.03
10,000-12,499 ft.	168.08	165.82	25.21	24.87
12,500-14,999 ft.	220.48	214.53	33.07	32.18
15,000-17,499 ft.	357.13	287.22	53.57	43.08
17,500-19,999 ft.	436.05	406.84	65.41	61.03
20,000-Deeper ft.	232.84	610.80	34.93	91.62

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,115.34	814.97	167.30	122.25
2,500 -3,749 ft.	573.52	626.33	86.03	93.95
3,750 -4,999 ft.	818.64	574.32	122.80	86.15
5,000 -7,499 ft.	407.39	531.94	61.11	79.79
7,500 -9,999 ft.	516.50	503.37	77.48	75.51
10,000 -12,499 ft.	584.72	510.25	87.71	76.54
12,500 -14,999 ft.	508.54	496.56	76.28	74.48
15,000 -17,499 ft.	350.52	515.24	52.58	77.29
17,500 - 19,999 ft.	N/A	492.58	N/A	73.89
20,000 - Deeper ft.	N/A	774.29	N/A	116.14

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources. The listing of each well and their onshore/offshore status will also be posted on the Louisiana Tax Commission website on or before January 15 of each respective tax year.

1. Parishes Considered to be Located in Region I

Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
2007	234780	Higher	96
2006	232639	234779	92
2005	230643	232638	88
2004	229010	230642	84
2003	227742	229009	80
2002	226717	227741	76
2001	225352	226716	72
2000	223899	225351	68
1999	222882	223898	64
1998	221596	222881	60
1997	220034	221595	56
1996	218653	220033	52
1995	217588	218652	48
1994	216475	217587	44
1993	215326	216474	40
1992	214190	215325	36

Year	Beginning Serial Number	Ending Serial Number	33 Year Life Percent Good
1991	212881	214189	32
1990	211174	212880	28
1989	209484	211173	24
1988	Lower	209483	20*
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

3. Adjustments for Allowance of External (Economic) Obsolescence

a. All wells producing 10 bbls oil or 100 mcf gas, or less, per day, as well as, all active service wells (i.e., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with proper documentation to claim this reduction.

b. All inactive (shut-in) wells shall be allowed a 90 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. All oil and gas property assessments may be based on an individual cost basis.

e. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12- Personal Property Tax Report - Oil and Gas Property.

3. Oil and gas personal property will be assessed in 7 major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);
- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

5. External (economic) and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, external (economic) and/or functional obsolescence shall be included in the assessor's determination of fair market value. A

minimum obsolescence shall be recognized with a service factor calculated using the following formula summarized in intervals in Table 907.C-3.

$$\text{Service Factor} = (\text{Actual Throughput}/\text{Rated Capacity})^{0.6}$$

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Actuators—(See Metering Equipment)	
Automatic Control Equipment—(See Safety Systems)	
Automatic Tank Switch Unit—(See Metering Equipment)	
Barges - Concrete—(Assessed on an individual basis)	
Barges - Storage—(Assessed on an individual basis)	
Barges - Utility—(Assessed on an individual basis)	
Barges - Work—(Assessed on an individual basis)	
Communication Equipment—(See Telecommunications)	
Dampeners—(See Metering Equipment - "Recorders")	
DESORBERS—(No metering equipment included):	
125#	94,050
300#	103,700
500#	118,000
Destroilets—(See Metering Equipment - "Regulators")	
Desurgers—(See Metering Equipment - "Regulators")	
Desilters—(See Metering Equipment - "Regulators")	
Diatrollers—(See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings—(Assessed on an individual basis)	
Dry Dehydrators (Driers)—(See Scrubbers)	
Engines-Unattached—(Only includes engine & skids):	
Per Horsepower	300
(1) Evaporators—(Assessed on an individual basis)	
Expander Unit—(No metering equipment included):	34,500
Per Unit	
Flow Splitters—(No metering equipment included):	(2) 1
48 In. Diameter Vessel	6,800
72 In. Diameter Vessel	(3) 2
96 In. Diameter Vessel	2,250
120 In. Diameter Vessel	(4) 3
	4,100
	(5) 4
	8,450
Fire Control System—(Assessed on an individual basis)	
Furniture & Fixtures—(Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
50 HP and less - Per HP	1,280
51 HP to 100 HP - Per HP	1,100
101 HP and higher - Per HP	800
Property Description	\$ Cost-New
Gas Coolers—(No metering equipment):	
5,000 MCF/D	26,500
10,000 MCF/D	29,850
20,000 MCF/D	92,850
50,000 MCF/D	210,650
100,000 MCF/D	345,000
Generators—Package Unit only -(No special installation) Per K.W.	200

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Glycol Dehydration-Package Unit—(including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	18,600
4.1 to 5.0 MMCF/D	20,750
5.1 to 10.0 MMCF/D	40,000
10.1 to 15.0 MMCF/D	55,650
15.1 to 20.0 MMCF/D	75,750
20.1 to 25.0 MMCF/D	98,500
25.1 to 30.0 MMCF/D	187,100
30.1 to 50.0 MMCF/D	209,000
50.1 to 75.0 MMCF/D	260,000
75.1 & Up MMCF/D	300,000
Heaters—(includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,450
30 In. Diameter Vessel - 500,000 BTU/HR Rate	8,100
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,800
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	14,500
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,900
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	5,500
30 In. Diameter Vessel - 500,000 BTU/HR Rate	7,550
36 In. Diameter Vessel - 750,000 BTU/HR Rate	9,850
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	13,950
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	17,850
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,050
30 In. Diameter Vessel - 450,000 BTU/HR Rate	8,800
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	13,200
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	15,150
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	17,150
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	27,100
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	32,550
Heat Exchange Units-Skid Mounted—(See Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	14,100
4 x 27 ft.	18,150
6 x 20 ft.	19,000
6 x 27 ft.	23,900
8 x 20 ft.	30,450
8 x 27 ft.	35,650
10 x 20 ft.	40,250
10 x 27 ft.	47,350
L.A.C.T. (Lease Automatic Custody Transfer) - See Metering Equipment)	
JT Skid (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Up to 2 MMCF/D	35,000
Up to 5 MMCF/D	50,000
Up to 10 MMCF/D	120,000
Up to 20 MMCF/D	200,000
Liqua Meter Units—(See Metering Equipment)	
Manifolds—(See Metering Equipment)	
Material & Supplies-Inventories—(Assessed on an individual basis)	
Meter Calibrating Vessels—(See Metering Equipment)	

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Meter Prover Tanks—(See Metering Equipment)	
Meter Runs—(See Metering Equipment)	
Meter Control Stations—(not considered Communication Equipment) - (Assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	5,450
Controllers—time cycle valve - valve controlling device (also known as Intermittent)	1,700
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	4,150
30 In. Diameter Vessel - 1 bbl. Dump	5,350
36 In. Diameter Vessel - 2 bbl. Dump	7,400
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	3,900
24 In. Diameter Vessel - 1/2 bbl. Dump	4,700
30 In. Diameter Vessel - 1 bbl. Dump	5,900
36 In. Diameter Vessel - 2 bbl. Dump	7,950
L.A.C.T. & A.T.S. Units:	
30 lb. Discharge	26,200
60 lb. Discharge	29,850
Manifolds—Manual Operated:	
High Pressure	
per well	20,550
per valve	6,950
Low Pressure	
per well	9,950
per valve	3,300
Manifolds—Automatic Operated:	
High Pressure	
per well	37,150
per valve	12,250
Low Pressure	
per well	26,500
per valve	8,950
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports - no meters:	
2 In. piping & valve	5,600
3 In. piping & valve	6,300
4 In. piping & valve	7,600
6 In. piping & valve	10,600
8 In. piping & valve	15,920
10 In. piping & valve	21,200
12 In. piping & valve	26,500
14 In. piping & valve	36,100
16 In. piping & valve	47,150
18 In. piping & valve	58,400
20 In. piping & valve	75,900
22 In. piping & valve	95,650
24 In. piping & valve	117,100
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,250
5 bbl. calibration plate (24 x 10)	3,500
7.5 bbl. calibration plate (30 x 10)	4,900
10 bbl. calibration plate (36 x 10)	6,100
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,250
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	300

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	16,300
2 1/2 In. nominal size - per mile	21,950
3 & 3 1/2 In. nominal size - per mile	28,000
4, 4 1/2 & 5 In. nominal size - per mile	48,150
6 In. nominal size - per mile	70,700
Poly Pipe	
2 In. nominal size - per mile	8,950
2 1/2 In. nominal size - per mile	12,050
3 In. nominal size - per mile	15,400
4 In. nominal size - per mile	26,450
6 In. nominal size - per mile	38,850
Plastic-Fiberglass	
2 In. nominal size - per mile	13,900
3 In. nominal size - per mile	23,800
4 In. nominal size - per mile	40,900
6 In. nominal size - per mile	60,050
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(Assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit - separator & 1 heater - 500 MCF/D	17,600
Class II - per unit - separator & 1 heater - 750 MCF/D	23,450
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	250
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	
Up to 300 HP - per HP of motor	300
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	350
Pumping Units-Conventional & Beam Balance—(Unit value includes motor) - assessed according to API designation.	
16 D	5,750
25 D	10,800
40 D	13,500
57 D	18,000
80 D	30,050
114 D	31,250
160 D	42,050
228 D	45,650
320 D	57,700
456 D	68,500
640 D	82,950
912 D	87,750
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(See Metering Equipment)	
Regulators:	
per unit	2,300

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	4,600
well & production equipment	5,300
with surface op. ssv, add	7,950
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	13,250
per well	33,150
production train	19,900
glycol dehydration system	46,400
P/L pumps and LACT	29,150
Compressors	
Wellhead Actuators (does not include price of the valve)	
5,000 psi	3,300
10,000 psi and over	4,950
NOTE: For installation costs - add 25%	
Sampler—(See Metering Equipment - "Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	2,800
10 In. Diameter Vessel	4,000
12 In. Diameter Vessel	4,550
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,300
12 In. Diameter Vessel	1,700
NOTE: No metering or regulating equipment included in the above.	
Separators—(No metering equipment included)	
Horizontal—Filter /1,440 pci (High Pressure)	
6-5/8" OD x 5'-6"	4,100
8-5/8" OD x 7'-6"	4,450
10-3/4" OD x 8'-0"	6,250
12-3/4" OD x 8'-0"	8,400
16" OD x 8'-6"	13,500
20" OD x 8'-6"	19,950
20" OD x 12'-0"	21,000
24" OD x 12'-6"	28,300
30" OD x 12'-6"	41,300
36" OD x 12'-6"	49,100
Separators—(No metering equipment included)	
Vertical 2—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,650
30" OD x 10'-0"	5,000
36" OD x 10'-0"	10,450
Vertical 3—Phase /125 pci (Low Pressure)	
24" OD x 7'-6"	4,900
24" OD x 10'-0"	5,550
30" OD x 10'-0"	7,700
36" OD x 10'-0"	10,950
42" OD x 10'-0"	12,700
Horizontal 3—Phase /125 pci (Low Pressure)	
24" OD x 10'-0"	7,250
30" OD x 10'-0"	9,300
36" OD x 10'-0"	10,150
42" OD x 10'-0"	16,200
Vertical 2—Phase /1440 pci (High Pressure)	
12-3/4" OD x 5'-0"	2,750
16" OD x 5'-6"	4,100
20" OD x 7'-6"	7,800
24" OD x 7'-6"	9,450
30" OD x 10'-0"	14,400
36" OD x 10'-0"	18,650
42" OD x 10'-0"	29,850
48" OD x 10'-0"	35,200
54" OD x 10'-0"	53,300
60" OD x 10'-0"	66,650
Vertical 3 - Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,800

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
20" OD x 7'-6"	8,400
24" OD x 7'-6"	9,750
30" OD x 10'-0"	15,050
36" OD x 10'-0"	19,250
42" OD x 10'-0"	31,400
48" OD x 10'-0"	36,400
Horizontal 2—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	4,700
20" OD x 7'-6"	7,550
24" OD x 10'-0"	10,300
30" OD x 10'-0"	15,850
36" OD x 10'-0"	20,100
42" OD x 15'-0"	40,800
48" OD x 15'-0"	47,050
Separators—(No metering equipment included)	
Horizontal 3—Phase /1440 pci (High Pressure)	
16" OD x 7'-6"	7,250
20" OD x 7'-6"	8,100
24" OD x 10'-0"	11,800
30" OD x 10'-0"	16,800
36" OD x 10'-0"	24,200
36" OD x 15'-0"	27,050
Offshore Horizontal 3—Phase /1440 pci (High Pressure)	
30" OD x 10'-0"	34,850
36" OD x 10'-0"	33,250
36" OD x 12'-0"	48,250
36" OD x 15'-0"	50,350
42" OD x 15'-0"	78,150
Skimmer Tanks—(See Flow Tanks in Tanks section)	
Stabilizers—per unit	
	5,150
Sump/Dump Tanks—(See Metering Equipment - "Fluid Tanks")	
Tanks—No metering equipment	
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. Range (average tank size - 250 bbl.)	32.20
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size - 300 bbl.)	25.00
Storage Tanks (Closed Top)	
1,000 barrel	21.30
1,500 barrel	18.80
2,000 barrel	18.30
2,001 - 5,000 barrel	16.80
5,001 - 10,000 barrel	15.80
10,001 - 15,000 barrel	14.80
15,001 - 55,000 barrel	10.35
55,001 - 150,000 barrel	7.80
Internal Floating Roof	
10,000 barrel	30.40
20,000 barrel	20.60
30,000 barrel	15.30
50,000 barrel	13.60
55,000 barrel	13.10
80,000 barrel	11.60
100,000 barrel	10.10
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	40,000
Radio telephone	3,000
Supervisory controls:	
remote terminal unit, well	8,550
master station	19,500
towers (installed):	
heavy duty, guyed, per foot	500
light duty, guyed, per foot	40
heavy duty, self supporting, per foot	510
light duty, self supporting, per foot	110
equipment building, per sq. ft.	150
solar panels, per sq. ft.	50
Utility Compressors	
per horsepower - rated on motor	660

Table 907.C.1 Surface Equipment	
Property Description	\$ Cost New
Vapor Recovery Unit—No Metering Equipment	
60 MCF/D or less	17,500
105 MCF/D max	25,000
250 MCF/D max	33,000
Waterknockouts—Includes unit, backpressure valve & regulator, but, no metering equipment.	
2' diam. x 16'	4,750
3' diam. x 10'	7,100
4' diam. x 10'	9,800
6' diam. x 10'	16,050
6' diam. x 15'	18,550
8' diam. x 10'	23,250
8' diam. x 15'	26,700
8' diam. x 20'	29,600
8' diam. x 25'	32,950
10' diam. x 20'	38,750

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	1,120
Below ground	475
Air Compressors:	
1/3 to 1 H.P.	1,500
1/2 to 5 H.P.	2,530
Car Wash Equipment:	
In Bay (roll over brushes)	40,250
In Bay (pull through)	62,480
Tunnel (40 to 50 ft.)	136,000
Tunnel (60 to 75 ft.)	182,000
Drive On Lifts:	
Single Post	7,350
Dual Post	8,280
Lights:	
Light Poles (each)	750
Lights - per pole unit	830
Pumps:	
Non-Electronic - self contained and/or remote controlled computer	
Single	3,180
Dual	4,730
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	5,380
Dual	7,250
Read-Out Equipment (at operator of self service)	1,180
Per Hose Outlet	
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	3,550
10 ft. lighted - installed on 16 ft. pole	6,500
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	2,960
Lighted "pricing" (5 x 9 ft.)	3,030
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	10,760
2 poles	14,080
3 poles	15,750
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	5,720
Lighted "pricing" (5 x 9 ft.)	3,030
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,175
Tanks—(average for all tank sizes)	
Underground - per gallon	1.80

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs

associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

Table 907.C-3 Service Factor (Remaining Utility) Conversion Chart		
Throughput Capacity	Obsolescence Percentage	Service Factor Percentage
95	3	97
90	6	94
85	9	91
80	13	87
75	16	84
70	19	81
65	23	77
60	26	74
55	30	70
50	34	66
45	38	62
40	42	58
35	47	53
30	51	49
25	56	44
20	62	38
15 or less *	65	35

* Reflects residual or floor rate.

1. First, divide Actual Throughput by Rated Capacity to determine the Throughput/Capacity Percentage.
2. Then, find that percentage in Column 1 (round to the nearest 5 percent) and multiply the depreciated cost-new assessed value of the pipeline by the percentage indicated in Column 3 to determine the amount of obsolescence indicated in Column 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34: (March 2008).

Chapter 11. Drilling Rigs and Related Equipment §1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	630,300	94,500
4,000	750,200	112,500
5,000	980,000	147,000
6,000	1,244,800	186,700
7,000	1,669,600	250,400

Table 1103.A Land Rigs		
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	2,104,300	315,600
9,000	2,548,900	382,300
10,000	3,003,500	450,500
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	3,468,100	520,200
12,000	3,942,600	591,400
13,000	4,427,100	664,100
14,000	4,921,500	738,200
15,000	5,425,900	813,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	5,940,200	891,000
17,000	6,464,500	969,700
18,000	6,998,700	1,049,800
19,000	7,542,900	1,131,400
20,000	8,097,100	1,214,600
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	8,661,100	1,299,200
25,000 +	9,235,200	1,385,300

Barges (Hull)—Assess Barges (Hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC		***	
	200-299 FT.	50,000,000	7,500,000
	300-Up FT.	300-Up FT.	150,000,000

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0-800 ft.		***
801-1,800 ft.		***
1,801-2,500 ft.	\$ 150,000,000	22,500,000
2,501-Up ft.	\$ 200,000,000	30,000,000

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	213,500	32,100

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	306,250	45,900
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	354,400	53,200
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	402,500	60,400
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	450,600	67,600
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	481,250	72,200
VII	117' X 215M#	(2) 8V92 (2) 12V71	551,250	82,700

1. The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

2. These tables assume complete rigs in good condition. If it is documented to the assessor that any rig is incomplete or is in less than good condition, these amounts should be adjusted.

3. Significant variations from the "good" condition are possible and must be considered when the drilling rig is valued. These variations in condition are acknowledged by HADCO in the newsletter pricing. Conditions from "poor" to "excellent" are priced for all depth ratings. If adjustments are needed, the most recent HADCO newsletter shall be used to determine the proper adjusted condition.

a. Significant factors that would downgrade the condition can be identified by the following data:

i. a detailed estimate and description of substantial capital repairs needed on the rig and/or rig data sheet verifying the rig is of outdated technology (mechanical rig or the like).

b. Significant factors that would upgrade the condition can be identified by the following data:

i. a rig manufacture date on the LAT form of less than three years.

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence may be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:

Chapter 13. Pipelines

§1305. Reporting Procedures

A. - D. ...

E. Refer to current cost tables (1307.A and 1307.B) and depreciation guidelines (Table 1307.C), adopted by the Louisiana Tax Commission. Yearly depreciation will be determined according to actual age, on an economic life of 25 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than that determined for the maximum actual age shown in Table 1307.C.

F. Assessment will be based on fair market value (refer to column on LAT Form 14) unless taxpayer provides evidence that conditions exist that warrant change. External (economic) and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, external (economic) and/or functional obsolescence shall be included in the assessor's determination of fair market value.

G. A minimum economic obsolescence shall be recognized with a service factor calculated using the following formula and table:

$$\text{Service Factor} = (\text{Actual Throughput}/\text{Rated Capacity})^{0.6}$$

1. This service factor represents remaining utility for the pipeline and shall be applied in addition to normal depreciation.

H. Pipeline sales, properly documented, should be considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 34:

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 142,770	\$ 21,420
4	167,250	25,090
6	195,910	29,390
8	229,490	34,420
10	268,830	40,320

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
12	314,900	47,240
14	368,880	55,330
16	432,100	64,820
18	506,160	75,920
20	592,920	88,940
22	694,550	104,180
24	813,590	122,040
26	953,040	142,960
28	1,116,400	167,460
30	1,307,750	196,160
32	1,531,900	229,780
34	1,794,460	269,170
36	2,102,040	315,310
38	2,462,330	369,350
40	2,884,370	432,660
42	3,378,750	506,810
44	3,957,870	593,680
46	4,636,250	695,440
48	5,430,910	814,640

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
6	\$ 841,680	\$ 126,250
8	845,680	126,850
10	848,970	127,340
12	860,060	129,010
14	878,960	131,840
16	905,650	135,850
18	940,150	141,020
20	982,460	147,370
22	1,032,560	154,880
24	1,090,470	163,570
26	1,156,180	173,430
28	1,229,690	184,450
30	1,311,010	196,650
32	1,400,130	210,020
34	1,497,050	224,560
36	1,601,770	240,270
38	1,714,290	257,140
40	1,834,620	275,190
42	1,962,750	294,410
44	2,098,680	314,800
46	2,242,410	336,360
48	2,393,950	359,090

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2007	0.986	1	97	.96
2006	1.040	2	93	.97
2005	1.088	3	90	.98
2004	1.170	4	86	1.01
2003	1.210	5	82	.99
2002	1.231	6	78	.96
2001	1.238	7	74	.92
2000	1.249	8	70	.87
1999	1.271	9	65	.83
1998	1.275	10	60	.77
1997	1.286	11	55	.71
1996	1.307	12	50	.65
1995	1.327	13	45	.60
1994	1.374	14	40	.55
1993	1.413	15	35	.49
1992	1.441	16	31	.45
1991	1.458	17	27	.39
1990	1.487	18	24	.36
1989	1.527	19	22	.34
1988	1.609	20	21	.34
1987	1.678	21	20	.34

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 34:

Chapter 25. General Business Assets

§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment and Other Assets Used in General Business Activity

A. Because the information necessary to use the market and income approaches to value is generally not available, the fair market value of office furniture and equipment, machinery and equipment and other assets used in general business activity can generally best be estimated by the cost approach. This approach allows the assessors across the state of Louisiana to fairly and uniformly assess business and industrial personal property, while, at the same time, allowing each assessor the discretion that is necessary to accommodate modernization, facelifting of equipment, and obsolescence.

B. The following data is required to use the cost approach to value:

1. total acquisition costs of equipment including freight, installation, taxes and fees, as well as, date of purchase;
2. an index that adjusts the cost for the effects of inflation;
3. the average expected economic life of the equipment;
4. a typical depreciation schedule for the equipment; and
5. information to determine external (economic) and/or functional obsolescence, if any.

C. The assessor should obtain from the taxpayer the acquisition cost of the equipment, the actual age of the equipment, and any information that may reflect on the average economic life and fair market value of the equipment. These regulations, as adopted by the Louisiana Tax Commission, contain guidelines for average economic life, typical depreciation schedules and cost indices.

D. Three different procedures are defined for establishing fair market value when using the cost approach: Procedure 1 shall be used for the typical business and industrial personal property which has an average economic life equal to the guidelines, and that has not incurred any external (economic) and/or functional obsolescence. Alternative Procedure 2 should only be used for the business and industrial personal property which has an average life that is either lower or higher than the guidelines. Alternative Procedure 3 should only be used for the business and industrial personal property that has incurred external (economic) and/or functional obsolescence. An assessor or taxpayer wishing to deviate from Procedure 1 shall bear the burden of proving that the alternative procedure elected establishes the fair market value of the property.

E. Composite multipliers are computed for the assessor in Procedure 1 and presented in Table 2503.D. These tables shall be updated annually by the Tax Commission in order to comply with uniform assessment of personal property.

F. Procedure 1

1. This procedure for establishing the fair market value of business and industrial personal property (excluding oil and gas properties, drilling rigs, inventories and leased equipment), includes these steps:

- a. classify the personal property according to the classifications listed in Table 2503.A;
- b. the classification table will refer the assessor to the correct composite multiplier table. The composite multiplier is a composite of the cost index and the percent good;
- c. select the correct composite multiplier from this table, based on the actual age of the equipment (See example below);
- d. multiply the composite multiplier times the acquisition cost of the equipment. The result is the fair market value of the equipment;
- e. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen." For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An

exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

2. For example, the age 1 composite multiplier applies to personal property purchased the year prior to the year it is being assessed (two years back for Orleans Parish) and so on for the other ages.

G. Alternative Procedure 2

1. If an assessor determines that economic lives are over or understated for certain personal property, an appropriate composite multiplier can be derived as illustrated below:

- a. select the average economic life of the personal property based on information available;
- b. go to Table 2503.C and select the percent good based upon the actual age of the property;
- c. select the appropriate cost index from Table 2503.B based on the year of acquisition;
- d. multiply the percent good times the cost index to calculate the composite multiplier;
- e. multiply the composite multiplier times the acquisition cost of the personal property in order to derive the fair market value of the personal property;
- f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

2. This procedure should only be used if the assessor has proof that the average economic life of the personal property is different from the average economic life as provided in the guidelines. Otherwise, use Procedure 1 to calculate the fair market value.

H. Alternative Procedure 3

1. This procedure should be used only if external (economic) and/or functional obsolescence has affected the fair market value of the business and industrial personal property. External (economic) and functional obsolescence are defined in Section 301 of these rules and regulations. Negative economic obsolescence may occur resulting in a positive adjustment known as munificence.

2. The steps are:

- a. acquire the acquisition cost and year acquired of the personal property;
- b. multiply the acquisition cost times the cost index that corresponds to the year acquired from Table 2503.B;
- c. multiply the number derived in Step b by the percent good that corresponds to the year acquired from Table 2503.C;
- d. adjust the number derived in Step c for functional obsolescence/munificence if any;
- e. adjust the number derived in Step d for external (economic) obsolescence, if any; the result is the fair market value of personal property that has been affected by external (economic) and/or functional obsolescence/munificence;
- f. in the year in which the personal property has reached its minimum percent good, the applicable composite multiplier in use at that time is "frozen". For the assessment years that follow, the RCNLD value does not change until the personal property is permanently taken out of service. An

exception to this rule applies when the property has been reconditioned to extend its remaining economic life.

3. This procedure should be used only if the assessor has evidence that the personal property has incurred significant external (economic) and/or functional obsolescence/munificence.

4. If external (economic) and/or functional obsolescence/munificence, when documented and supported by the taxpayer, is not included in the valuation when warranted, a value greater or lower than fair market value will result.

5. Otherwise, use Procedure 1 to calculate the fair market value.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007), LR 34:

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery & Equipment	***
Feed Mill Equipment (Production Line)	***
***	***
Cash Registers & Scanners (Also See Supermarkets)	***
Cellular/PCS	6
Antennas	3
Cellular/PCS Telephone Handsets	6
Electronics	15
Leasehold Improvements	6
Power and Batteries	6
Switching	20
Towers – Cellular/PCS and Microwave	6
Transmission	
Cement, Clay & Brick Prods. Mfg. M & E	***
***	***
Supermarkets	5
Cash Registers & Scanners	***
***	***

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2006 = 100*
2007	1	1373.3	0.986
2006	2	1302.3	1.040
2005	3	1244.5	1.088
2004	4	1157.3	1.170
2003	5	1118.6	1.210
2002	6	1100.0	1.231
2001	7	1093.4	1.238
2000	8	1084.3	1.249
1999	9	1065.0	1.271
1998	10	1061.8	1.275
1997	11	1052.7	1.286

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2006 = 100*
1996	12	1036.0	1.307
1995	13	1020.4	1.327
1994	14	985.0	1.374
1993	15	958.0	1.413
1992	16	939.8	1.441
1991	17	928.5	1.458
1990	18	910.2	1.487
1989	19	886.5	1.527
1988	20	841.4	1.609
1987	21	806.9	1.678
1986	22	795.4	1.702
1985	23	787.9	1.718
1984	24	776.4	1.744
1983	25	755.8	1.791
1982	26	742.4	1.824

*Reappraisal Date: January 1, 2007 – 1353.8 (Base Year)

Table 2503.D Composite Multipliers 2008 (2009 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
11					.26	.31	.48	.71	.87
12						.29	.41	.65	.84
13						.27	.35	.60	.80
14							.32	.55	.77
15							.30	.49	.73
16							.29	.45	.69
17								.39	.64
18								.36	.58
19								.34	.52
20								.34	.48
21								.34	.47
22									.44
23									.41
24									.35
25									.36
26									.36

C. Percent Good

Table 2503.C Percent Good									
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	Age
1	.70	.85	.87	.90	.92	.94	.95	.97	.98
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.34	.52	.57	.67	.76	.80	.85	.90	.93
4	.16	.34	.41	.54	.67	.73	.79	.86	.90
5		.23	.30	.43	.58	.66	.73	.82	.87
6		.18	.19	.33	.49	.58	.68	.78	.84
7			.18	.26	.39	.50	.62	.74	.81
8				.22	.30	.43	.55	.70	.78
9				.20	.24	.36	.49	.65	.75
10					.21	.29	.43	.60	.71
11					.20	.24	.37	.55	.68
12						.22	.31	.50	.64
13						.20	.26	.45	.60
14							.23	.40	.56
15							.21	.35	.52
16							.20	.31	.48
17								.27	.44
18								.24	.39
19								.22	.34
20								.21	.30
21								.20	.28
22									.26
23									.24
24									.20
25									.20
26									.20

D. Composite Multipliers 2008 (2009 Orleans Parish)

Table 2503.D Composite Multipliers 2008 (2009 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97
2	.51	.72	.76	.82	.87	.90	.94	.97	.99
3	.37	.57	.62	.73	.83	.87	.92	.98	1.01
4	.19	.40	.48	.63	.78	.85	.92	1.01	1.05
5		.28	.36	.52	.70	.80	.88	.99	1.05
6		.22	.23	.41	.60	.71	.84	.96	1.03
7			.22	.32	.48	.62	.77	.92	1.00
8				.27	.37	.54	.69	.87	.97
9				.25	.31	.46	.62	.83	.95
10					.27	.37	.55	.77	.91

1. - 1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:

Chapter 27. Guidelines for Application and Assessment of Land Eligible to be Assessed at Use Value

§2711. Tables—Agricultural and Horticultural Lands

A. The following table is hereby established as the gross returns, production cost and net income per acre per year of agricultural and horticultural lands.

Table 2711.A Weighted Average Income per Acre 1999-2002				
Commodity	Acres	Percent	Net Income	Weighted Fractional
Beef **	2,348,316	38.267	(46.25)	-0-
Soybeans(Wheat) *	902,500	14.707	2.33	34.27
Cotton	567,500	9.248	86.15	796.72
Rice (Crawfish)*	468,250	7.630	4.25	32.43
Sugarcane	426,250	6.946	86.58	601.38
Corn	395,000	6.437	(12.39)	-0-
Idle Crop ***	522,794	8.519	-----	-0-
Grain Sorghum	108,750	1.772	4.03	7.14
Conservation Reserve	243,442	3.967	46.45	184.27
Dairy **	123,153	2.007	23.64	47.45
Sweet Potatoes	17,750	0.289	1,011.01	292.18
Catfish	6,934	0.113	(551.35)	-0-
Watermelon	3,293	0.054	314.95	17.01
Southern Peas	1,758	0.029	894.02	25.93
Tomatoes	592	0.010	19,247.42	192.47
Strawberries	414	0.007	8,805.92	61.64

Table 2711.A Weighted Average Income per Acre 1999-2002				
Commodity	Acres	Percent	Net Income	Weighted Fractional
Totals	6,136.696	100.000	---	2,292.89

Weighted Average Net Income—\$22.93

*Wheat is typically grown as a double crop with soybeans. Farm-raised crawfish is normally a double crop with rice.

**Acreage for beef and dairy were obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 50.

***Acreage for idle cropland was obtained from the 2002 Census of Agriculture, Vol. 1:Part 18, Louisiana State and Parish Data, Table 8. Includes acreage for cropland idle or used for cover crops or soil-improvement, but not harvested and not pastured or grazed.

NOTE: By state statute, negative net income for a given commodity is set equal to zero.

B. Suggested Capitalization Rate for Agricultural and Horticultural Lands

Table 2711.B Suggested Capitalization Rate for Agricultural and Horticultural Lands	
Risk Rate	2.72%
Illiquidity Rate	0.18%
Safe Rate*	4.91%
Capitalization Rate**	7.81%

*Safe Rate is four year average of 30 year U. S. Treasury securities.

**Statutory minimum capitalization rate of 12 percent used in calculations instead of actual rate as developed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:491 (March 2004), LR 34:

Chapter 31. Public Exposure of Assessments; Appeals §3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - K. ...

Form 3101 Exhibit A Appeal to Board of Review by Taxpayer for Real and Personal Property

Name: _____ Parish/District: _____

Taxpayer

Address: _____ City, State, Zip: _____

Ward: _____ Assessment/Tax Bill Number: _____

Board of Review

(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

I am requesting that the Fair Market Value of this property be fixed at:

Land \$ _____ Improvement \$ _____ Personal Property* \$ _____
Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BOR's written determination. For further information, call LTC at (225) 925-7830.

Appellant _____

Address: _____

Telephone No. _____

AUTHORITY NOTE: Promulgated in accordance with LSA-Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:512 (March 2000), LR 30:492 (March 2004), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

D.1. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision shall attach a pleading containing the following:

- a. name under which the property is assessed;
- b. description of the property;
- c. determination of the Board of Review;
- d. a prayer stating the type of relief, action or order desired by the pleader;
- e. a list of exhibits presented to the Board of Review;
- f. a list of witnesses who may be called, with a brief description of the anticipated testimony of the witness; and
- g. anticipated time needed to present the case; and
- h. an appraisal report using one or more of the three recognized appraisal techniques or other appropriate evidence concerning the fair market value of property.

2. All other pleadings shall be filed and served on the assessor or taxpayer at least 10 days prior to the scheduled hearing.

E. - P. ...

Q. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits, indexed and bound. Seven copies of all exhibits shall be provided to the commission, with a copy to the opposing party 10 days prior to the scheduled appeal. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

R. - T. ...

U. The parties to an appeal shall be notified in writing, by certified mail, of the final decision by the commission. The taxpayer or assessor shall have thirty (30) days from receipt of the Order to appeal to a court of competent jurisdiction.

V. - X. ...

I understand that property is assessed at a percentage of fair market value, which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller, under usual and ordinary circumstances, the highest price the property would bring on the open market, if exposed for sale for a reasonable time.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address:
Telephone No.:
Date of Appeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:

§3105. Practice and Procedure for Public Service Properties Hearings

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. ...

Form 3103.A Exhibit A Appeal to Louisiana Tax Commission by Taxpayer or Assessor for Real and Personal Property

La. Tax Commission P. O. Box 66788 Baton Rouge, LA 70896 (225) 925-7830

Name: Parish/District: Taxpayer Address: City,State,Zip:

Ward: Assessment Tax Bill No.: Appeal No.: (Attach copy of complete appeal submitted to the Board of Review) Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:

Land \$ Improvement \$ Personal Property \$ Total \$

The proposed Fair Market Value by the taxpayer was (at the Board of Review):

Land \$ Improvement \$ Personal Property \$ Total \$

The Fair Market Value determined by the Board of Review was:

Land \$ Improvement \$ Personal Property \$ Total \$

* If you are not appealing personal property leave this section blank.

LTC Docket No. Form 3105.A Exhibit A Appeal to Louisiana Tax Commission by Taxpayer La. Tax Commission P. O. Box 66788 Baton Rouge, LA 70896 (225) 925-7830 Name: Parish/District: Taxpayer Address: City,State,Zip: Address or Legal Description of Property Being Appealed

The Fair Market Value of the Public Service Section of the Louisiana Tax Commission is:

Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:

Land \$ _____ Improvement \$ _____
Personal Property* \$ _____ Total \$ _____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone No.: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court, and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the Order to appeal to a court of competent jurisdiction.

T. ...

LTC Docket No. _____
Form 3106.A
Appeal to Louisiana Tax Commission
by Taxpayer
for Bank Stock Assessments
LA Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

\$ _____

I am requesting that the Fair Market Value be fixed at:

\$ _____

Appellant:
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:

§3107. Practice and Procedure for the Appeal of Insurance Credit Assessments

A. ...

B. All filings to the Louisiana Tax Commission shall be filed with the Office of General Counsel. They shall be deemed filed only when actually received, in proper form. All filings shall be in the form of an original and seven copies on letter size paper.

1. The Office of the General Counsel shall be sent one "service copy" of all State Court, Federal Court, Appellate Court and/or Supreme Court pleadings in which the LTC is named party in addition to Special Counsel for the LTC.

C. ...

D. Ten days prior to said hearings, the protesting taxpayer shall file a signed, pleading, specifying each respect in which the initial determination is contested, setting forth the specific basis upon which the protest is filed, together with a statement of the relief sought and seven copies of all hearing exhibits to be presented; which shall be marked "Exhibit Taxpayer_____" and shall be consecutively numbered, indexed and bound. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

E. - R. ...

S. The parties to an appeal shall be notified in writing by certified mail of the final decision of the commission. The taxpayer shall have 30 days from receipt of the order to appeal to a court of competent jurisdiction.

T. ...

LTC Docket No. _____

Form 3107.A
Appeal To Louisiana Tax Commission
by Taxpayer
for Insurance Assessments

LA Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:
\$ _____

I am requesting that the Fair Market Value be fixed at:
\$ _____

Appellant: _____
Address: _____

Telephone No.: _____
Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), LR 34:

Chapter 35. Miscellaneous

§3503. Homestead Exemptions

The text of this Section has been moved to §101.F. - F.3.h.

§3515. General Rule

A. - E. ...

F. All Tulane University property tax bills and related correspondence shall be sent to:

Tulane University
Attention: Director of Real Estate
800 East Commerce Road, Suite 201
Harahan, LA 70123-3452

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:725 (March 2005), amended LR 33:503 (March 2007), LR 34:

Elizabeth L. Guglielmo
Chairman

0712#049

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Family Support**

Child Care Assistance Program—LA Pathways
(LAC 67:III.5125 and 5127)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III Subpart 12, Chapter 51, Child Care Assistance Program, Subchapter D Louisiana Pathways Child Care Career Development System (LA Pathways). This

Emergency Rule effective January 18, 2007 will remain in effect for 120 days. This declaration is necessary to extend the original Emergency Rule, which was published September 20, 2007, and was effective November 18, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the January 2008 issue.)

This Emergency Rule is necessary to effectuate the intent of the legislators in Act 394, Regular Session 2007.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter D. Louisiana Pathways Child Care Career Development System (LA Pathways)

§5125. Authority

A. LA Pathways is the state practitioner registry maintained by the Department of Social Services. LA Pathways offers child care staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:

§5127. Participation in LA Pathways

A. Any individual working or planning to work in the child care industry is eligible to enroll in LA Pathways by completing an application and forwarding the required documents. An application for enrollment and information about enrollment is available at <http://pathways.louisiana.gov> or by phoning the Division of Child Care and Early Childhood Education at 225-342-0694. LA Pathways will register child care directors and staff according to requirements based on training and education, experience and professional activities, as approved by the Department of Social Services. Participation is voluntary.

B. Requirement for the Administrator Track for LA Pathways

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Assistant Director I	annual training as required by Licensing Minimum Standard	none	Encourage to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations	minimum 6 months	Encourage to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved Administrative Training Categories	minimum 1 year	Encourage to participate in an early childhood professional organization

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Director	as required by Licensing Minimum Standards	as required by licensing	Encourage to participate in an early childhood professional organization
Director I	CDA Credential or approved early childhood diploma and 30 clock hrs. in approved Administrative Training Categories or related associate degree or 30 hours toward associate degree with 4 college courses in early childhood or child development	minimum 1 year	Membership in an early childhood professional organization.
Director II	CDA Credential or approved early childhood diploma and 45 clock hrs. in approved Administrative Training Categories or National Administrative Credential or associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	minimum 18 months	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event
Director III Administrator Certificate To receive an Administrator Certificate you must have 75 clock hours of instruction in approved Administrative Training Categories 2 college courses in approved administration can be substituted for the Administrator Certificate	CDA Credential or approved early childhood diploma and Administrator Certificate or associate degree in child development or early childhood and Administrator Certificate or bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers and Administrator Certificate or	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
	related bachelor degree with 6 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate		
Level VIII Director IV	master degree in early childhood, child development or early childhood administration of which 3 courses focus on infants and toddlers and Administrator Certificate or related masters degree with 8 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

C. Requirements for the Classroom Track for LA Pathways

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff I	as required by licensing regulations	none	encouraged to participate in an early childhood professional organization
Child Care Staff II	12 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 6 months	encouraged to participate in an early childhood professional organization
Child Care Staff III	30 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Staff IV	60 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher I	90 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher II	120 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	encouraged to participate in an early childhood professional organization

Child Care Teacher I	CDA credential in preschool or infant/toddler specialization or approved early childhood diploma	minimum 1 year	encouraged to participate in an early childhood professional organization
Child Care Teacher II	CDA credential or approved early childhood diploma and 9 CEU's or 2 early childhood college courses or 30 hours toward associate degree with 4 college courses in early childhood or child development or related associate degree	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher III	associate degree in early childhood or child development or related associate degree with 4 college courses in early childhood or child development or bachelor degree in early childhood or child development or related bachelor degree with 3 college courses in early childhood or child development	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher IV	bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers or related bachelor degree with 6 early childhood or child development college courses of which 3 focus on infants and toddlers	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Master Teacher	graduate degree in early childhood or child development or unrelated graduate degree with 4 early childhood or child development college courses	minimum 2 years	membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

D. Qualification for the School Readiness Tax Credit for Child Care Directors and Staff

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Child Care Director Levels

a. Directors who are classified as Director I by LA Pathways are classified as meeting Level I qualifications for purposes of this credit.

b. Directors who are classified as Director II by LA Pathways classified as meeting Level II qualifications for purposes of this credit.

c. Directors who are classified as Director III by LA Pathways are classified as meeting Level III qualifications for purposes of this credit.

d. Directors who are classified as Director IV by LA Pathways are classified as meeting Level IV qualifications for purposes of this credit.

3. Child Care Staff Levels

a. Staff members who are classified as Child Care Teacher I by LA Pathways are classified as meeting Level I requirements for purposes of this credit.

b. Staff members who are classified as Child Care Teacher II by LA Pathways are classified as meeting Level II requirements for purposes of this credit.

c. Staff members who are classified as Child Care Teacher III by LA Pathways are classified as meeting Level III requirements for purposes of this credit.

d. Staff members who are classified as Child Care Teacher IV or Child Care Master Teacher by LA Pathways are classified as meeting Level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:

Ann S. Williamson
Secretary

0712#075

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2007 Shrimping Season—Closure of State Outside Waters

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of state outside waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the western shore of Freshwater Bayou

Canal at 92 degrees 18 minutes 33 seconds west longitude to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at 29 degrees 03 minutes 10 seconds north latitude and 90 degrees 50 minutes 27 seconds west longitude. This closure is effective at 6 a.m., Tuesday, December 18, 2007.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October 15 through the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of state outside waters do not average 100 possession count and additional small white shrimp are expected to recruit to these waters. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of remaining state outside waters, if biological and technical data indicate the need to do so or if enforcement problems develop, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations.

Earl P. King, Jr.
Chairman

0712#056

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season Closure—Sister Lake

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters and it may suspend the fishing of oysters altogether from natural reefs not leased by it when such reefs are threatened with depletion as determined by the department, and a resolution adopted by the Wildlife and Fisheries Commission on August 2, 2007, which authorized the Secretary of the Department of Wildlife and Fisheries to take emergency action if necessary to close areas if excessive amounts of non-living reef material are found in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, the secretary hereby declares an early closure to the oyster season that was originally scheduled to occur from November 12, 2007 to December 5, 2007.

The 2007/2008 oyster season in the Sister Lake Public Oyster Seed Reservation, as described in Louisiana Revised Statutes (R.S.) 56:434.E., will close on Monday, November 19, 2007 at one-half hour after sunset. Heavy harvest pressure has occurred during the initial opening of the 2007/2008 Sister Lake oyster season. It has been determined by department biologists that excessive amounts of non-living reef material are being harvested with seed oyster loads. Heavy harvest pressure and the removal of large quantities of non-living reef material may threaten the long-term sustainability of the oyster reefs of Sister Lake if allowed to continue. The protection of oyster reef resources from injury and theft is in the best interest of the public oyster seed reservation.

Bryant O. Hammett, Jr.
Secretary

0712#003

Rules

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Seed Commission

Seed Stock (LAC 7:XIII.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, adopts regulations governing the sale, distribution and planting of adulterated rice seed stock containing adventitious presence of genetically modified traits, in particular, LibertyLink traits.

In August of 2006, the United States Department of Agriculture (USDA) announced that trace amounts of a genetically modified trait, LibertyLink 601 (LL traits) had been found in the U.S. rice supply. The announcement also indicated that based on the scientific data reviewed, the USDA and the U.S. Food and Drug Administration concluded that no human health, food safety, or environmental concerns were associated with this genetically modified rice. The rice industry in Louisiana contributes over \$250,000,000 to Louisiana's economy through the sale of rice.

Following that announcement, the rice market has experienced turmoil because of the uncertainty of being able to market such rice, despite the conclusions regarding human health, food safety and environmental concerns. The European Union has stated that the countries in the union will not buy rice contaminated with LL traits. It is vital that Louisiana's rice industry maintain the European Union as a market for Louisiana rice. Further it is necessary to forestall any embargo of rice that comes from Louisiana by other rice importing countries.

These Rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 3. Adulterated Seed Stock and Other Propagating Stock

Subchapter A. Rice Seed Stocks Containing the Presence of LibertyLink Traits

§301. Planting of Rice Seed Stocks with LL Traits

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter.

1. Any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007).

§303. Planting of All Rice Seed Stocks

A. Rice seed stocks, where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice seed stock is found to test positive for LL traits, according to tolerances established by the department, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007).

§305. Sampling of Rice Seed Stocks for the Detection of LL Traits

A. Samples of all rice seed stocks shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007).

§307. Rice Seed Stocks Originating from Out-of-State

A. All rice seed stocks originating from out-of-state must meet the requirements for sampling, testing, and handling, as established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007).

§309. Carry-Over Rice Seed Stocks

A. Any carry-over rice seed stocks that have been processed, repackaged, or otherwise adulterated in any manner that would jeopardize the integrity of the seed lot are subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007).

§311. Stop-Sale

A. Any lot of rice seed that is subject to the requirements of this Chapter that tests positive for LL traits, according to tolerances established by the department, shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2593 (December 2007).

Bob Odom
Commissioner

0712#079

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System

(LAC 28:LXXXIII.301, 517, 613, 707, 709, 903, 1301, 1601-1609, 1901, 2101, 2301, 2401, 2501-2505, 2701-2721, 3301-3303, 3503, 3507, 3701, and 3905)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System* (LAC Part Number LXXXIII). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations.

Proposed changes in Bulletin 111 set the target graduation rate for schools at 65 percent. Additionally, proposed changes separate the current School Improvement (SI) set of labels and remedies into 1) the "Academically Unacceptable Schools (AUS)" set, which is time-bound, and 2) the "Subgroup Component Failure (SCF)" set, which is in line with requirements of the *No Child Left Behind Act*. Accordingly, criteria for schools entering, moving within, and exiting these various levels of AUS and SCF are detailed as are the related remedies. There are no estimated implementation costs (savings) to state or local governmental units as a result of these changes.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - D. ...

E. Beginning in 2004, preliminary accountability results issued each summer shall include both preliminary school performance scores and subgroup component analyses for

those schools on the academic watch list, or in school improvement 2 or higher, or who have failed the subgroup component the prior year. Beginning in 2007, preliminary accountability results each summer shall include schools as delineated in Paragraph 2 below. Final accountability results shall be issued during the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. - 2.d....

3. Beginning in 2008, the preliminary accountability results shall include those schools identified as;

a. failing the SPS component based on the current year Baseline SPS; or

b. failing the SPS component based on the prior year Baseline SPS; or

c. being academically unacceptable (any level) the prior academic year; or

d. failing the subgroup component based on prior spring test results.

F. - H.4 ...

I. In the fall of 2007, schools will receive two SPS.

1. The Growth SPS will determine Growth Labels and rewards status for the SPS component.

2. The Growth SPS will consist of the indicators and weighting in the table above, with the test data collected in spring 2007, and attendance and dropout data collected in the academic year 2005-2006.

3. The Baseline SPS will determine performance labels, academic assistance levels and academically unacceptable schools.

I.4. - J.1. ...

2. The Growth SPS will continue to determine growth labels and rewards status for the SPS component.

J.2a. - L....

2005-2007 High School Transition			
2005			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2005	GEE(60%), Iowa (30%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2005
Baseline SPS	2004 & 2005	GEE(60%), Iowa (30%), Attendance (5%), Drop (5%)	Performance Label, SI Status, SPS AYP for 2005
Transition Baseline SPS	2004 & 2005	GEE(90%), Attendance (5%), Drop (5%)	Growth Target, Growth Goal for 2006
2006			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2006	GEE(90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2006
Baseline SPS	2005 & 2006	2006 GEE/iLEAP (90%), 2005 & 2006 Attendance (5%), 2005 & 2006 Drop (5%)	Performance Label, SI Status refer to H.3.a. above), SPS AYP for 2006; Growth Target and Goal for 2007

2007			
	Years of Data	Indicators/Weights	Generates
Growth SPS	2007	GEE/iLEAP (90%), Attendance (5%), Drop (5%)	Growth Label, Rewards for 2007
Baseline SPS	2006 & 2007	2006 & 2007 GEE/iLEAP (70%), 2007 Graduation Index (30%)	Performance Label, SI and AA status, SPS AYP for 2007; Growth Target and Goal for 2008 (refer to l.5.a. above)
2005-2007 High School Transition 2005 - 2007 High School Transitions2005- 2007 High School Transition 2005-2007 High School Transition			

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034 (November 2006), LR 32:2035 (November 2006), LR 33:424 (March 2007), LR 33:2593 (December 2007).

Chapter 5. Calculating the NRT Index §517. Inclusion of Students

A. ...

B. A school that has at least 10 percent of its testing population transferring from other schools within the LEA after October 1 but before the conclusion of spring testing may request the LEA file an appeal (as described in §3109) and provide the Louisiana Department of Education with sufficient evidence that excluding these students from school performance score calculations would change its academic assistance, AUS or subgroup component failure level; or its growth or rewards label.

1. - 1.c....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 31:2422 (October 2005), LR 31:2764 (November 2005), LR 33:2594 (December 2007).

Chapter 6. Graduation Index

§613. Calculating a Graduation Index

A. - B. ...

C. Students who graduate or complete high school in less than four years are only eligible for Academic Endorsement, TOPS Opportunity Award, Career/Technical Endorsement, BESE Approved Industry Based Certification, TOPS Tech and Dual Enrollment, or TOPS Tech and Articulated Credit points if the program existed at the time of the students' exit.

D. Students who complete/exit high school in more than four years may earn incentive points for their school provided they are no older than 21 at the beginning of the academic year in which they exit.

1. The incentive points earned is the difference between those a student earned in the 4th year of high school and the points corresponding to the higher level at which the student exits high school in a subsequent year.

a. Students shall not be considered dropouts if they exit the school after earning points for their cohort.

E. Schools that re-enroll students who dropped out of school will earn incentive points if the "reclaimed" students

1. were considered dropouts and were included as such in schools' accountability scores; and

2. are no older than 21 at the beginning of the academic year in which they are re-enrolled; and

3. complete/exit a second time with a GED or higher.

a. These "reclaimed" students shall not be considered dropouts a second time.

F. To insure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data (the index earned by the graduating class of 2006 will be used for 2007 accountability calculations).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2594 (December 2007).

Chapter 7. Subgroup Component

§707. Safe Harbor

A. - B.2. ...

a. achieves a 90 percent attendance rate (for schools without a 12th grade) or 90 percent non-dropout rate through 2006 or a 65 percent graduation rate beginning in 2007 (for schools with a 12th grade). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout rate check); or

b. makes at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-dropout rate (through 2007 or graduation rate beginning in 2008 for schools with a 12th grade) from the previous year.

c. For schools with a 12th grade, the non-dropout rate shall be evaluated for students in grade 9 and above.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:1025 (June 2006), LR 33:253 (February 2007), LR 33:2594 (December 2007).

§709. Failing the Subgroup Component

A. ...

B. A school in which all subgroups have passed the subgroup component must also have the school pass the additional academic indicator (AAI). A school passes the AAI when it has:

1. achieved a 90 percent attendance rate (for schools without a 12th grade)/90 percent non-dropout rate, (through 2006/65 percent graduation rate, beginning in 2007 (for schools with a 12th grade). (A 99 percent confidence interval is applied to the 90 percent attendance rate and 90 percent non-dropout/65 percent graduation rate check.); or

2. made at least 0.1 percent improvement in attendance rate (for schools without a 12th grade) or non-dropout rate (for schools with a 12th grade) from the previous year. Schools with a 12th grade will use a non-dropout rate through 2007. Beginning in 2008, non-dropout rate will be replaced with graduation rate as described in §708.

3. beginning in 2007 for schools with a 12th grade, earned a sufficient graduation rate as described in §708 or improved the non-dropout rate through 2007 or graduation rate beginning in 2008 by at least 0.1 percent.

NOTE: If a school in which all subgroups have passed the subgroup component does not pass the additional academic indicator, it shall not pass the subgroup component.

C. Any school that has failed the subgroup component in the same subject for two consecutive years is required to implement remedies from the Subgroup Component Failure Table (level 1) (e.g. special education in mathematics in year one and economically disadvantaged in math in year two. The school has failed the subgroup component for two consecutive years and therefore, must implement level 1 remedies from the subgroup component failure).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:2256 (October 2004), LR 32:1026 (June 2006, LR 33:2594 (December 2007).

Chapter 9. Growth Labels

§903. Growth Labels

Exemplary Academic Growth	A school that makes its growth target, the Students with Disabilities (SWD) and Economically Disadvantaged (ED) subgroups improving their adjusted Subgroup Assessment Indices (SAI) at least two points, and the school is not AUS.
Recognized Academic Growth	A school that makes its growth target but either subgroup does not improve its adjusted Subgroup Assessment Index (SAI) at least two points and/or the school is AUS.
Minimal Academic Growth	A school improving (at least 0.1 points) but not meeting its growth target.
No Growth	A school with a change in SPS of 0 to -2.5 points.
School In Decline	A school with a declining SPS (more than -2.5 points).

NOTE: For subgroup performance to be evaluated, there must be a minimum of 10 students in the subgroup.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 33:2595 (December 2007).

Chapter 13. Rewards/Recognition

§1301. Reward Eligibility

A. Beginning in 2004, a school shall receive recognition and monetary awards (as appropriated by the Legislature) when it achieves a growth label of exemplary or recognized academic growth. Exemplary Academic Growth (EAG) shall require, in addition to achieving the school's growth target, at least 2.0 points growth in every subgroup's GPS (African American, American Indian/Alaskan Native, Asian, Hispanic, White, Economically Disadvantaged, Limited English Proficient, Students with Disabilities, and All Students), and the school cannot be in any level of school improvement. Recognized Academic Growth (RAG) is earned by any school that meets its growth target, regardless of subgroup growth or school improvement status. Beginning in 2007, the Subgroup Performance Score (GPS) shall be replaced with an adjusted Subgroup Assessment Index (SAI). The SAI shall be calculated for two subgroups - the Economically Disadvantaged and the Students with Disabilities. For combination schools, the K-8 and 9-12 SAI (Subgroup Assessment Indices) will be combined using a weighted average of eligible test takers. (Note - As with the GPS, a minimum of 2.0 points of growth is required in each SAI for a school to qualify for exemplary academic growth. Identification for AUS or subgroup component failure prevents consideration for EAG).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:2595 (December 2007).

Chapter 16. Academically Unacceptable Schools and Subgroup Component Failure

§1601. Entry into and Exit from Academically Unacceptable School Status

A. Beginning in 2007, schools with Baseline School Performance Scores (SPS) of less than 60.0 points shall be labeled "Academically Unacceptable Schools" (AUS) and shall implement remedies from the "Academically Unacceptable Schools" table (below).

1. A school shall enter AUS Level 1 when identified as AUS if the school was not labeled AUS the previous year, including schools that did not receive performance labels the previous year.

2. BESE may, during times of transition in the accountability system, waive schools meeting certain conditions from receiving the AUS label and/or from implementing certain remedies and sanctions.

B. Schools progress to more serious levels of AUS based on the number of consecutive years a school has been labeled AUS.

C. Remedies/sanctions are additive, requiring schools to continue implementation of remedies/sanctions from earlier levels (a school labeled AUS3 must implement sanctions from AUS1, 2, and 3).

D. For 2007 only, Academically Unacceptable Schools with a 2006 and 2007 Baseline SPS of 55.0 or greater that received the Growth Label of Recognized Academic Growth in 2007 shall be required in 2007-08 to continue the same remedies/sanctions as in 2006-07 but implement no additional remedies/sanctions.

E. In 2008, all schools labeled AUS shall implement remedies/sanctions based on the number of years they have been labeled AUS.

F. Schools exit academically unacceptable school status when their Baseline SPSs are 60.0 or greater.

G. Academically Unacceptable Schools

Academically Unacceptable Schools			
Level	Remedy	Title 1	Non-Title 1
AUS 1 (Year 1) (notified Aug. 1)	Revised School Improvement Plan to open academic year	X	X
	School Choice	X	X
	Scholastic Audit	X	X
	Write a new SIP for the remainder of the current year and the next two years based on Audit findings. {*SIP must incorporate remedies from AUS 2 and 3}	X	X
AUS 2 (Year 2)	Implement SIP based on Scholastic Audit	X	X
	Title 1 Schools - Offer Supplemental Educational Services	X	

Academically Unacceptable Schools			
Level	Remedy	Title 1	Non-Title 1
	Non-Title 1 Schools - Add from Corrective Action List		X
	Quarterly Implementation Reports	X	X
	Eligible for Turn-Around Specialist	X	X
AUS 3 (Year 3)	Add from Corrective Action List (all schools)	X	X
	Develop Reconstitution Plan	X	X
	Eligible for DE	X	X
AUS 4 (Year 4)	Submit Reconstitution Plan (Type 5 Charter School Proposals are submitted at the same time)	X	X
AUS 5 (Year 5)	Implement Reconstitution Plan	X	X
AUS 6 (Year 6)	Implement Reconstitution Plan	X	X
AUS 6+ (more than 6 years)	Eligible for RSD	X	X

*To establish continuity in the SIP that addresses the scholastic audit – the SIP that is to get the school out of trouble before AUS 4 – schools must plan to move to AUS 2 and AUS 3 over the following two years. This prevents extensive revisions to a plan in order to implement SES in AUS 2 or to add a "corrective action" in AUS 2 or 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2595 (December 2007).

§1603. Requirements for Academically Unacceptable Schools

A. Schools/LEAs that do not comply with AUS remedies and sanctions will be eligible for state takeover.

B. Schools entering AUS Level 1 (AUS1) must:

1. submit for approval a new or revised School Improvement Plan (SIP) to the LDE within 60 days of identification:

a. the plan must meet all guidelines established by the LDE prior to the release of preliminary accountability results and disseminated to LEAs within 10 days of notification of AUS status;

b. the plan must be based on a needs assessment that includes classroom observations and that was conducted within the past 24 months;

c. the plan shall include sufficient detail to drive school reform efforts for the remainder of the academic year in which the school was labeled AUS;

2. participate in a scholastic audit provided by the LDE;

3. participate in the creation of a new SIP based on the results of the scholastic audit.

4. the new SIP must:

a. be written with the assistance of the LDE (DE, RESC, contractor, or other LDE staff);

b. encompass a two-year span;

c. include details that assume the school will advance to AUS2 and AUS3 over the next two years

(include SES and item/s from the corrective action list [see requirements for AUS3]);

d. follow all guidelines established by the LDE;

e. include the priorities listed in the scholastic audit report;

f. be submitted for approval to the LDE;

5. parents of students in Academically Unacceptable Schools (AUS) shall have the right to transfer their child to a higher performing public school as stated in Chapter 25.

C. Schools entering AUS Level 2 (AUS2) must;

1. implement a SIP meeting the standards in Subsection A (above);

2. offer supplemental educational services if they are Title 1 schools;

3. implement a remedy from the following corrective action list if they are not Title 1 schools:

a. replace school staff;

b. implement new curriculum;

c. decrease management authority;

d. contract an outside expert;

e. extend the school year or school day;

f. restructure;

4. submit quarterly implementation reports as defined by the LDE;

5. if desired, enter a cooperative agreement with the LDE to work with a turnaround specialist.

D. Schools entering AUS Level 3 (AUS3) must:

1. add a remedy from the corrective action list (all schools);

2. develop a reconstitution plan (see D below); and

3. enter a cooperative agreement with the LDE to work with a distinguished educator.

E. In compliance with RS 17:10.5, schools labeled AUS for four consecutive years are eligible for state takeover (other criteria may apply).

1. The means for this takeover occurring is a group submitting a proposal for a type 5 charter school and by BESE awarding a charter to the group.

2. Since multiple proposals may be submitted for one school, they are evaluated and the proposal most likely to succeed is most likely to receive the charter.

3. The reconstitution plan in C2 (above) serves as an LEA's proposal to keep and reconstitute its school.

4. If the LEA's proposal is determined to have the best chance to succeed, BESE can allow the district the opportunity to reconstitute the school.

F. Schools entering AUS Level 4 (AUS4) must submit the reconstitution plan developed in AUS3 to the LDE for approval and for the LEA to retain control of the school [as opposed to placement in the Recovery School District (RSD)].

G. Schools entering AUS Levels 5 and 6 must implement the approved reconstitution plan.

1. Failure to submit a reconstitution plan or failure to implement an approved reconstitution plan is grounds for placing a school in the RSD.

H. AUS schools that remain AUS for seven or more years are eligible for the RSD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2596 (December 2007).

§1605. Entry and Exit from Subgroup Component Failure

A. Any school that fails to meet Subgroup AYP in the same subject or in the AAI for two consecutive years enters Subgroup Component Failure Level 1 (SCF1).

B. Schools in any level of subgroup component failure remain at the same level if they pass Subgroup AYP for one year in the subject that caused them to originally enter.

C. A school exits subgroup component failure when it passes the Subgroup AYP for two consecutive years in the subject that caused them to originally enter subgroup component failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2597 (December 2007).

§1607. Requirements for Schools Identified as Failing the Subgroup Component for Two Consecutive Years

A. Remedies and sanctions associated with subgroup component failure are additive.

B. Schools identified as entering subgroup component failure shall enter School Improvement Level 1 (SI1) and be required to:

1. submit for approval a two-year SIP within 60 days of receiving notice of failure;
2. offer *School Choice* as defined in Chapter 25 if the school receives Title 1 funds.

C. Schools in Subgroup Component Failure (SCF) that again fail the subject that caused them to enter SCF will advance to more severe levels

D. Schools that continue to move into more severe levels of subgroup component failure receive the labels and must implement the remedies and sanctions associated with the following table (F).

E. Schools advance in order from SI1 to SI2 to CA1 (Corrective Actions) to CA2 to restructuring as required by the Elementary and Secondary Education Act (ESEA).

F. Subgroup Component Failure

Subgroup Component Failure			
Level	Remedy	Title 1	Non-Title 1
SI1	New 2 Year School Improvement Plan to open academic year (SIP must incorporate remedies from SI2)	X	X
	School Choice	X	
SI2	Supplemental Educational Services	X	
CA1	Add from Corrective Action List	X	X
	Eligible for Turnaround Specialist	X	X
CA2	Scholastic Audit	X	X
	Develop Alternate Governance Plan based on Audit	X	
	Develop Focused Reconstitution Plan based on Audit		X
Restructuring	Alternate Governance	X	

Subgroup Component Failure			
Level	Remedy	Title 1	Non-Title 1
	Implement Focused Reconstitution Plan	X	X

H. Title 1 schools entering SI2 must offer SES as delineated in Chapter 27.

I. All schools entering CA1 must:

1. add a remedy from the corrective action list (§1603.B.3);
2. if desired, enter into a cooperative agreement with the LDE to work with a turnaround specialist.

I. All schools entering CA2 must;

1. participate in a scholastic audit
2. develop an alternative governance plan based on the scholastic audit report if the school is a Title 1 school;
3. develop a focused reconstitution plan based on the scholastic audit report if the school is not a Title 1 school:
 - a. the focused reconstitution plan must address the specific cause of a school's entry into CA2;
 - b. all schools entering the restructuring level of subgroup component failure must implement the plans developed in I.2 and 3 (above).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2597 (December 2007).

§1609. Order of Priority for Remedies

A. When a school is identified as AUS and as failing the subgroup component for two or more consecutive years, the school shall implement remedies and sanctions according to the following priority:

1. AUS 5, 6, and 6+:
 - a. a school identified as AUS 5, must implement remedies and sanctions of AUS 1 through AUS 5;
 - b. Subgroup component failure will not be addressed by this school.
2. Restructuring
 - a. A school that is not labeled AUS 5, 6, or 6+ but that is labeled for subgroup failure as "restructuring" must implement the remedies and sanctions of schools in SI1 and 2, CA1 and 2, and restructuring, along with any AUS remedies and sanctions that may apply.
3. AUS 4
 - a. A school labeled as AUS 4 must implement remedies and sanctions of AUS 1 through 4.
 - b. Subgroup component failure will not be addressed by this school.
4. AUS 3
 - a. A school labeled as AUS 3 must implement remedies and sanctions of AUS 1 through 3.
 - b. Subgroup component failure will not be addressed by this school.
5. CA2
 - a. A school that is not labeled AUS 3, 4, 5, 6, or 6+ but that is labeled for subgroup failure as "CA2" must implement the remedies and sanctions of schools in SI1 and 2, and CA1 and 2, along with any AUS remedies and sanctions that may apply.

6. AUS 2
 - a. A school labeled as AUS 2 must implement remedies and sanctions of AUS 1 and 2.
 - b. Subgroup component failure will not be addressed by this school.
7. CA1
 - a. A school that is not labeled AUS 2, 3, 4, 5, 6, or 6+ but that is labeled for subgroup failure as "CA1" must implement the remedies and sanctions of schools in SI1 and 2, and CA1, along with any AUS remedies and sanctions that may apply.
8. SI2
 - a. A school that is not labeled AUS 2, 3, 4, 5, 6, or 6+ but that is labeled for subgroup failure as "SI2" must implement the remedies and sanctions of schools in SI1 and 2, along with any AUS remedies and sanctions that may apply.
9. AUS 1
 - a. Subgroup component failure will not be addressed by this school.

10. SI1

- a. Remedies and sanctions associated with AUS and/or subgroup component failure take precedence over those associated with academic assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2597 (December 2007).

Chapter 19. School Improvement, Academically Unacceptable Schools and Subgroup Component Failure: District and State Level Tasks

§1901. District Level Tasks

A. For all schools in school improvement, academically unacceptable schools, and schools in subgroup component failure, districts shall:

1. submit to SBESE by February 1st of each year a status report regarding the implementation of all remedy and sanction requirements and activities in each of their school improvement schools, academically unacceptable schools, and schools in subgroup component failure;
2. when requested by the LDE, assign a District Assistance Team (DAT) to assist in the development of the school improvement plan according to the guidelines established by the Louisiana Department of Education that include:
 - A.2.a. - A.6. ...
- B. Districts with schools in AUS 2 and/or SI2 must:
 - continue to adhere to the requirements of schools as described in §1901 and Chapter 16;
 - if desired, enter into partnership with the LDE to provide a distinguished educator or turn around specialist as listed in Chapter 16;
 - offer supplemental educational services for Title I schools;
 - submit to SBESE a written response by the local school board to the DE's annual report no later than 45 days subsequent to receiving the DE's report. Failure to respond to these recommendations will result in the school being ineligible to receive the assistance of the DE.
 - assist schools with any additional requirements from the corrective action list in Chapter 16.

C. District's responsibilities for AUS3 and CA1 schools are to:

1. continue to adhere to the required remedies and sanctions from earlier levels;

D. District's responsibilities to AUS4 and CA2 schools are to:

1. continue to adhere to the required remedies and sanctions from earlier levels, where applicable;
2. if a district has any academically unacceptable schools and those schools' reconstitution plans are approved by the SBESE, the district shall implement the approved reconstitution plans and utilize the recalculated data from the end of the previous year, school performance scores and growth targets, provided by the state. If the reconstitution plans are not approved, the schools lose state funding;
3. assist all other AUS4 and CA2 schools in designing their alternate governance (Title I schools) or "reconstitution light" plans (non-Title I schools) for submission to SBESE for approval.

E. District's responsibilities to AUS5 and restructuring schools are to:

1. assist all schools with implementation of their reconstitution, alternate governance or "focused reconstitution" plans.

F. District's responsibilities to AUS6 schools are to continue to assist with implementation of reconstitution plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2748 (December 2003), amended LR 31:1515 (July 2005), LR 33:2598 (December 2007).

Chapter 21. State-Level School Improvement, Academically Unacceptable Schools and Subgroup Component Failure Tasks

§2101. State Support at Each Level

A. State's responsibilities to districts with schools in school improvement, and schools labeled AUS or for subgroup component failure as aligned with Chapter 16 levels of remedies and sanctions.

A.1. - A.7. ...

8. provide an approved list of supplemental educational service providers;
9. ensure that external scholastic audits are completed for schools as funding is available. If funding is limited, schools will be prioritized from lowest SPS to highest SPS, and scholastic audits will be conducted in rank order until funding is exhausted;
10. may provide a distinguished educator to academically unacceptable schools to assist in the development and design of the reconstitution plan, as available; and
11. SBESE shall approve or disapprove reconstitution plans. If the SBESE approves the reconstitution plan, a partnership may be offered to the district for the assistance of a DE to support and assist with monitoring the implementation of the reconstitution plan for schools that fail to make adequate growth;
12. SBESE shall approve or disapprove alternate governance plans;
13. SBESE shall approve or disapprove "focused reconstitution" plans;

14. monitor the implementation of all schools' reconstitution/alternate governance plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2748 (December 2003), amended LR 30:2745 (December 2004), LR 31:1516 (July 2005), LR 32:1027 (June 2006), LR 33:2598 (December 2007).

Chapter 23. Reconstitution/Alternate Governance Plans

§2301. Schools Requiring Reconstitution/Alternate Governance Plans

A. Districts shall develop and submit reconstitution/alternate governance plans to the SBESE for approval by December 31st for schools as described in Chapter 16.

1. Reconstitution Plan: AUS schools.

a. - c. ...

2. Alternate Governance Plan—the alternate governance plan indicates how the district shall make significant changes in the school's staffing and governance to improve student academic achievement in the school to be able to make adequate yearly progress.

3. The focused reconstitution plan will address the specific problems that warranted the CA2 label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 31:1516 (July 2005), LR 31:2765 (November 2005), LR 33:2599 (December 2007).

Chapter 24. Recovery School District

§2401. Recovery School District

A. The Louisiana Legislature established the recovery school district with the passage of R.S. 17:1990. A school is eligible for the recovery school district under any of the following conditions.

1. The LEA fails to submit a reconstitution plan for a school in AUS4 to BESE for approval.

2. A school's reconstitution plan is submitted to BESE but is deemed to be unacceptable.

3. A school and/or the LEA fails to comply with the terms of a BESE approved reconstitution plan.

A.4. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1028 (June 2006), amended LR 33:2599 (December 2007).

Chapter 25. School Choice

§2501. Schools Requiring Choice

A. An LEA must develop a school choice policy for schools that are:

1. academically unacceptable;

2. Title I schools that:

a. have failed the subgroup component for one year;

b. must implement remedies for subgroup

component failure.

B. - C. 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 33:2599 (December 2007).

§2503. Student Eligibility

A. An LEA must offer choice to all students in an eligible school until the school is no longer identified as AUS or for subgroup component failure, i.e., the school passes the subgroup component for two consecutive years and/or is no longer academically unacceptable except:

1. if an eligible student exercises the option to transfer to another public school, an LEA must permit the student to remain in that school until he or she has completed the highest grade in the school. However, the LEA is no longer obligated to provide transportation for the student after the end of the school year in which the student's school of origin is no longer identified for remedies and sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 33:2599 (December 2007).

§2505. Transfer Options

A. - B.2. ...

C. Students may not transfer to any school that is academically unacceptable or that has been identified for school improvement 1 or higher for subgroup component failure.

D. If there are no schools to which students can transfer, parents must be notified that the child is eligible for choice. The notification will further indicate that no choice options are currently available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 33:2599 (December 2007).

Chapter 27. Supplemental Educational Services

NOTE: BESE has submitted Bulletin 124 as Notice of Intent to the *Louisiana Register* for public review. This Chapter 27 (§2701.A-§2721.K) shall no longer be applied as Rule upon the final adoption of Bulletin 124.

Chapter 33. New Schools and/or Significantly Reconfigured Schools

§3301. Inclusion of New Schools

A. ...

B. When two or more schools are created from an existing school (e.g., grades 4-6 "split" from an existing K-6 structure, creating a K-3 school and a 4-6 school), the LEA must consult with the LDE prior to implementing such changes to determine how the impacted schools will retain reward and/or AUS or subgroup component failure status and any sanctions, remedies, and funds (e.g., a 3-8 school in AUS 3 should retain the AUS3-status in both schools if it is reconfigured into a 3-5 and a 6-8 school and if all grade levels contributed to its poor performance). After this consultation, the LDE shall make all decisions regarding the effects of these changes on rewards, AUS and subgroup component failure status, and sanctions for all schools effected by the changes and will notify the LEA of its decision.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007).

§3303. Reconfigured Schools

A. Prior to any reconfiguration, the LDE will review the changes to school sites in the reconfiguration and will consult with the LEA on the effects that the reconfiguration will have on rewards and/or AUS or subgroup component failure status. After this consultation, the LDE shall make all decisions regarding the effects of these changes on rewards, AUS or subgroup component failure status, and sanctions for all schools effected by the changes and will notify the LEA of its decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 31:2765 (November 2005), LR 33:2600 (December 2007).

Chapter 35. Inclusion of Alternative Education Students

§3503. Option I

A. The testing score, and beginning in 2008 with the Baseline SPS, the dropout, and graduation data for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's and district's accountability calculations for both the SPS and subgroup components. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or corrective actions, if a statistically valid number of students were enrolled in the school at the time of testing.

B. Students included in the GED/Skills Option Program will be included in school accountability. They will be required to take the 9th grade Iowa Test (beginning in 2006, the Iowa Test is replaced by the iLEAP) or participate in LEAP Alternate Assessment Level 1 or Level 2 (LAA 1 or 2) while enrolled. All programs will be considered Option I for alternative education purposes, and student test score data, and beginning in-2008 with the Baseline SPS, dropout, and graduation data will be sent back to the sending high schools and districts for accountability purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006), LR 33:2600 (December 2007).

§3507. Option Considerations

A. - B.1. ...

C. An alternative school labeled AUS3 or higher may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs of the team do not exceed that for the DE. Sample team members could include the following; social workers, psychologists, educational diagnosticians, and counselors, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 33:2600 (December 2007).

Chapter 37. Inclusion of Lab Schools and Charter Schools

§3701. Special Consideration of Lab and Charter Schools

A. Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are lab schools and Type 1, 2, 3 and 5 charter schools that are independent schools and cannot be paired or shared with another school grade level, and/or if there is no home-based district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive an SPS. However, if they meet the requirements for accountability under the subgroup component, these analyses will be conducted, and any AUS or subgroup component failure and rewards decisions will be based on these results. If neither the SPS or subgroup component can be applied, the state shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card and will include the results of these students in the aggregate state accountability report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 33:2600 (December 2007).

Chapter 39. Inclusion of Students with Disabilities

§3905. Inclusion of Alternate Assessment Results

A. Beginning with the 2005-2006 Baseline SPS, and Subgroup AYP calculations, LEAP Alternate Assessment Level 1 and Level 2 shall be included in all SPS and Subgroup AYP calculations.

1. For the 2007 Baseline SPS and the 2008 Growth SPS, only, LAA 1 student test results will not be included.

B. - B.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 33:2600 (December 2007).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students (LAC 28: CXV.2321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2321.Carnegie Credit

for Middle School Students. The elimination of §2321.E is necessary due to changes in the High Stakes policy approved when the passing score for the eighth grade LEAP changed to the Basic/Approaching Basic combination. The revision of §2321.F would allow students who are repeating the eighth grade due to failure of the math and/or English language arts components of LEAP to earn high school credit. The policy does not allow the students to earn high school credit in the content area they failed on LEAP.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

§2321. Carnegie Credit for Middle School Students

A. - D. ...

E. Students who are repeating the eighth grade because they have failed the mathematics and/or English language arts components of LEAP shall not take or receive Carnegie credit for any high school courses in a content area in which they scored *Unsatisfactory* on the eighth grade LEAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007).

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Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators—Curriculum and Instruction
(LAC 28: CXV.2319, 2341, 2353, 2361, and 2363)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2319. High School Graduation Requirements, §2341, English, §2353, Mathematics, §2361, Science, and §2363, Social Studies.

The revision to §2319, §2341, §2353, §2361, and §2363 in Bulletin 741, *Louisiana Handbook for School Administrators*, will accomplish the following:

- Increase the Carnegie credits needed for a diploma from 23 to 24 by requiring a fourth year of math for high school graduation beginning with the freshman class of '08-'09.
- Enroll all incoming freshmen in '08-'09 into the recommended LA Core 4 Curriculum which includes four units each of English, math, science, and social studies; one unit of visual arts, performing arts, or Fine Arts Survey; and two units of foreign language courses or two speech courses.

These revisions are the result of recommendations from the High School Redesign Commission. The additional math requirement is justified because today's jobs require more math skills. Success in college is directly affected by the level of math a student takes and whether a student takes

math their senior year. The Louisiana Core 4 Curriculum represents the knowledge and skills that colleges and industry indicate are necessary to be successful.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

§2319. High School Graduation Requirements

A. Standard Diploma

1. For incoming freshmen prior to 2008-2009, the 23 units required for graduation shall include 15 required units and 8 elective units; the elective units can be earned at technical colleges as provided in §2389.

2. For incoming freshmen in 2008-2009 and beyond, the 24 units required for graduation shall include 16 required units and 8 elective units for the Louisiana Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum; the elective units can be earned at technical colleges as provided in §2389.

3. Beginning with incoming freshmen in 2008-2009, all ninth graders will be enrolled in the Louisiana Core 4 Curriculum.

a. After the student has attended high school for a minimum of two years, as determined by the school, the student, the student's parent, guardian, or custodian may request that the student be exempt from completing the Louisiana Core 4 Curriculum.

b. The following conditions shall be satisfied for consideration of the exemption of a student from completing the Louisiana Core 4 Curriculum.

i. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall meet to discuss the student's progress and determine what is in the student's best interest for the continuation of his educational pursuit and future educational plan.

ii. During the meeting, the student's parent, guardian, or custodian shall determine whether the student will achieve greater educational benefits by continuing the Louisiana Core 4 Curriculum or completing the Louisiana Core Curriculum.

iii. The student's parent, guardian, or custodian shall sign and file with the school a written statement asserting their consent to the student graduating without completing the Louisiana Core 4 Curriculum and acknowledging that one consequence of not completing the Louisiana Core 4 Curriculum may be ineligibility to enroll in into a Louisiana four-year public college or university. The statement will then be approved upon the signature of the principal or the principal's designee.

iv. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall jointly revise the Career Options Law Five-Year Plan.

c. The student in the Louisiana Core Curriculum may return to the Louisiana Core 4 Curriculum, in consultation with the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection).

d. After a student who is 18 years of age or older has attended high school for two years, as determined by the school, the student may request to be exempt from

completing the Louisiana Core 4 Curriculum by satisfying the conditions cited in Subparagraph 3.b with the exception of the requirement for the participation of the parent, guardian, or custodian, given that the parent/guardian has been notified.

B. In addition to completing a minimum of 23 Carnegie credits, students must pass the English language arts and mathematics components of the GEE and either the science or social studies portions of GEE to earn a standard high school diploma. For students with disabilities who have passed two of the three required components of the GEE and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required GEE component, that GEE component may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the GEE component.

1. The English language arts and mathematics components of GEE shall first be administered to students in the tenth grade.

2. The science and social studies components of the graduation test shall first be administered to students in the eleventh grade.

3. Remediation and retake opportunities will be provided for students that do not pass the test. Students shall be offered 50 hours of remediation each year in each content area they do not pass. Refer to *Bulletin 1566: Guidelines for Pupil Progression*, and the addendum to *Bulletin 1566: Regulations for the Implementation of Remedial Education Programs Related to the LEAP/CRT Program, Regular School Year*.

4. Students may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

a. A maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory* achievement level on either the English language arts and/or the mathematics component(s) of the eighth grade LEAP provided the student:

i. successfully completed specially designed elective(s) for LEAP remediation;

ii. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP for which the student previously scored at the *Unsatisfactory* achievement level.

C. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE.

1. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE.

D. The Certificate of Achievement is an exit document issued to a student with a disability after he or she has achieved certain competencies and has met certain conditions. Refer to *Bulletin 1706: Regulations for the Implementation of the Children with Exceptionalities Act*.

E. Minimum Course Requirements for High School Graduation

1. For incoming freshmen prior to 2008-2009, the minimum course requirements for graduation shall be the following:

English	4 units
Shall be English I, II, and III, in consecutive order; and English IV or Business English.	
Mathematics	3 units
(Effective for incoming freshmen 2005-2006 and beyond.) All students must complete one of the following: <ul style="list-style-type: none"> Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) or Integrated Mathematics I (1 unit) The remaining unit(s) shall come from the following: Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.	
(Effective for incoming freshmen 1997-98 through 2004-2005) Shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics	
Science	3 units
Shall be the following: <ul style="list-style-type: none"> 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, an additional course from the physical science cluster, or a locally initiated science elective. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	23 units

2. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core Curriculum, the minimum course requirements for graduation shall be the following:

English	4 units
Shall be English I, II, and III, and English IV or Senior Applications in English	

Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units) Geometry The remaining units shall come from the following: Algebra II, Financial Mathematics, Senior Applications in Math, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally initiated elective approved by BESE as a math substitute.	
Science	3 units
Shall be the following: 1 unit of Biology 1 unit from the following physical science cluster: Physical Science, Integrated Science, Chemistry I, Physics I, Physics of Technology I 1 unit from the following courses: Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, an additional course from the physical science cluster, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. 	
Social Studies	3 units
Shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of 4 units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Electives	8 units
TOTAL	24 units

3. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

English	4 units
Shall be English I, II, III, and English IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following: Financial Mathematics, Senior Applications in Math, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.	
Science	4 units
Shall be the following: 1 unit of Biology 1 unit of Chemistry 2 units from the following courses: Physical Science, Integrated Science, Physics I, Physics of Technology I, Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics of Technology II, Agriscience II, Anatomy and Physiology, or a locally initiated elective approved by BESE as a science substitute. <ul style="list-style-type: none"> Students may not take both Integrated Science and Physical Science Agriscience I is a prerequisite for Agriscience II and is an elective course. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required science unit	

Social Studies	4 units
Shall be the following 1/2 unit of Civics or AP American Government 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Law Studies, Psychology, Sociology, or African American Studies. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's Area of Concentration for the 4th required social studies unit.	
Health Education	1/2 unit
Physical Education	1 1/2 units
Shall be Physical Education I and Physical Education II, or Adapted Physical Education for eligible special education students. A maximum of four units of Physical Education may be used toward graduation. NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language or 2 Speech courses	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts. A student completing a Career and Technical Area of Concentration may substitute a BESE/Board of Regents approved IBC-related course from within the student's area of concentration for the required applied arts unit.	
Electives	3 units
TOTAL	24 units

F. High School Area of Concentration

1. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

a. Incoming freshmen prior to 2008-2009 can complete an Academic Area of Concentration by completing the current course requirements for the Tuition Opportunity Program for Students (TOPS) Opportunity Award.

b. Incoming freshmen in 2008-2009 and beyond can complete an Academic Area of Concentration by completing the course requirements for the LA Core 4 curriculum.

c. To complete a career Area of Concentration, students shall meet the minimum requirements for graduation including four elective primary credits in the Area of Concentration and two related elective credits, including one computer/technology course. Areas of Concentration are identified in the Career Options Reporting System with each LEA designating the Career and Technical Education Areas of Concentration offered in their school system each year. The following computer/technology courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1

Course	Credit
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

G. Academic Endorsement

1. Graduating seniors who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for an academic endorsement to the standard diploma.

a. Students graduating prior to 2010-2011 shall complete an Academic Area of Concentration. Students graduating in 2010-2011 and beyond shall complete the following curriculum requirements:

English	4 units
English I, II, III, and IV	
Mathematics	4 units
Algebra I (1 unit) or Algebra I-Pt. 2 Geometry Algebra II The remaining unit shall come from the following Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, or Discrete Mathematics	
Science	4 units
1 unit of Biology 1 unit of Chemistry 1 unit of advanced science from the following courses: Biology II, Chemistry II, Physics, or Physics II 1 additional science unit	
Social Studies	4 units
1/2 unit of Civics or AP American Government and Politics 1/2 unit of Free Enterprise 1 unit of American History 1 unit from the following: World History, World Geography, Western Civilization, or AP European History 1 unit from the following: World History, World Geography, Western Civilization, AP European History, Economics, Law Studies, Psychology, Sociology, or African American Studies.	
Health Education	1/2 unit
Physical Education	1 1/2 units
NOTE: The substitution of JROTC is permissible.	
Foreign Language	2 units
Shall be 2 units in the same foreign language	
Arts	1 unit
1 unit Fine Arts Survey or 1 unit of Art (§2333), Dance (§2337), Music (§2355), Theatre Arts (§2333), or Applied Arts.	
Electives	3 units
TOTAL	24 units

b. Students shall pass all four components of GEE with a score of *Basic* or above, or one of the following combinations of scores with the English language arts score at *Basic* or above:

- i. one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or
- ii. two *Approaching Basic*, two *Mastery* or above.

c. Students shall complete one of the following requirements:

- i. Senior Project;
 - ii. one Carnegie unit in an AP course with a score of three or higher on the AP exam;
 - iii. one Carnegie unit in an IB course with a score of four or higher on the IB exam; or
 - iv. three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English language arts.
- d. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.
- e. Students shall achieve an ACT Composite Score of at least 23 or the SAT equivalent.

H. Career/Technical Endorsement

1. Students who meet the requirements for a standard diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the standard diploma.

a. Students graduating prior to 2010-2011 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

b. Students shall complete the career area of concentration.

c. Students graduating prior to 2009-2010 shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the *Approaching Basic* level or above. Students graduating in 2009-2010 and beyond shall pass all four components of the GEE with a score of basic or above OR one of the following combinations with the English language arts score at basic or above:

- i. one approaching basic, one mastery or advanced, and basic or above in the remaining two;
- ii. two approaching basic, two mastery or above.

d. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration (as defined in the *LDE Diploma Endorsement Guidebook*) OR senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

i. industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE; or

ii. three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours in student's area of concentration.

e. Students shall achieve a minimum GPA of 2.5.

f. Students graduating prior to 2008-2009 shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2008-2009 and beyond shall achieve a minimum ACT Composite Score (or SAT Equivalent) of 20 or the State ACT average (whichever is higher) or the Silver Level on the WorkKeys Assessment.

I. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high

school graduation requirements; however, in those instances in which BESE authorizes an LEA to impose more stringent academic requirements, a school system diploma may be denied.

J. Each school shall follow established procedures for special requirements for high school graduation to allow each to address individual differences of all students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070, 3072 (December 2005), LR 32:1414 (August 2006), LR 33:431 (March 2007), LR 33:2601 (December 2007).

§2341. English

A. Four units of English shall be required for graduation. They shall be English I, II, and III, and English IV, or Business English (for incoming freshmen prior to 2008-2009), or senior applications in English.

B. Students who score at the *Unsatisfactory* achievement level on the English language arts component of grade eight LEAP shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English meeting graduation requirements.

C. The English course offerings shall be as follows:

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I	1
Reading II	1
English as a Second Language (ESL) I, II, III, and IV	1 each

D. Only students who have limited English proficiency are permitted to enroll in English as a Second Language (ESL) courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007).

§2353. Mathematics

A. Effective for 2008-2009 incoming freshmen, four units of mathematics shall be required for graduations. All students must complete the following:

1. Algebra I (1 unit) or Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units)

2. Geometry. The remaining units shall come from the following:

a. Algebra II, Financial Mathematics, Senior Applications in Math, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, Discrete Mathematics, or a locally-initiated elective approved by BESE as a math substitute.

B. Effective for 2005-2006 to 2007-2008 incoming freshmen, three units of mathematics shall be required for graduation. All students must complete one of the following:

1. Algebra I (1 unit); or
2. Algebra I-Pt. 1 and Algebra I-Pt. 2 (2 units); or
3. Integrated Mathematics I (1 unit). The remaining unit(s) shall come from the following:

a. Integrated Mathematics II, Integrated Mathematics III, Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

C. For incoming freshmen 1997-98 to 2004-2005, the three required mathematics courses shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

D. Students who score at the *Unsatisfactory* achievement level on the mathematics component of grade eight LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

1. Introductory Algebra/Geometry may be used as the high school remediation course for students who have been promoted to the ninth grade without having passed the mathematics component of grade eight LEAP.

E. Financial Mathematics may be taught by teachers certified in Business Education.

F. The Mathematics course offerings shall be as follows:

Course Title(s)	Units
Advanced Mathematics I, II	1 each
Algebra I, II	1 each
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Integrated Mathematics I, II, III	1 each
Introductory Algebra/Geometry (Remediation Elective)	1
Pre-Calculus	1
Probability and Statistics	1
Senior Applications in Math	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007).

§2361. Science

A. Effective for incoming freshmen 1999-2000 and thereafter, the science graduation requirements shall be as follows:

1. 1 unit of Biology;
2. 1 unit from the following physical science cluster:
 - a. Physical Science;
 - b. Integrated Science;
 - c. Chemistry I;
 - d. Physics I
 - e. Physics of Technology I;
3. 1 unit from the following courses:
 - a. Aerospace Science;
 - b. Biology II;

- c. Chemistry II;
- d. Earth Science;
- e. Environmental Science;
- f. Physics II;
- g. Physics of Technology II;
- h. Agriscience II (See Subsection C below.);
- i. Anatomy and Physiology;
- j. an additional course from the physical science cluster; or
- k. a locally initiated science elective approved by the DOE.

B. Students may not take both Integrated Science and Physical Science.

C. Agriscience I is a prerequisite for Agriscience II and is an elective course.

D. The Science course offerings shall be as follows:

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007).

§2363. Social Studies

A. Three units of social studies shall be required for graduation. They shall be American History, 1/2 unit of Civics or AP American Government, 1/2 unit of Free Enterprise; and 1 of the following: World History, World Geography, Western Civilization, or AP European History.

B. The Social Studies course offerings shall be as follows:

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1
African American Studies	1

C. Economics may be taught by a teacher certified in business education.

D. Free Enterprise shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

1. income;
2. money management;
3. spending and credit;
4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007).

Weegie Peabody
Executive Director

0712#043

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—School Health Forms (LAC 28: CXV.1145)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1145.School Health Forms. These revisions were proposed by the Department of Education, in conjunction with the Department of Health and Hospitals, under the authority of R.S. 40:5.12, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Rule will establish standardized health forms which are designed to eliminate the duplication of information submitted to schools and school nurses relative to health information and screenings, allergies, illnesses, sports physicals, medication administration, and prescribed procedures.

The Rule should have an overall positive impact on the health of school aged children in that the Rule will ensure uniformity in the documentation of medical information submitted to schools and school nurses.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1145. School Health Forms

A. Effective August 2007, R.S. 40:5.12. requires all LEAs to implement the use of the standardized school health forms to eliminate the duplication of information submitted to schools and school nurses relative to health information and screenings, allergies, illnesses, sports physicals, medication administration, and prescribed procedures.

B. The most current version of the school health forms shall replace all other forms used to obtain health information, including previously piloted versions of these forms. These forms shall not be changed or altered in any manner.

C. The following is a brief description of each form.

1. School Entrance and General Health Exam Form/LHSAA Medical History Evaluation—for all sports physicals and/or other health evaluations provided to school nurses and school systems. Exceptions: Physicians may continue to utilize the original LHSAA Sports Physical Form in performing sports physicals without sanctions for non-compliance.

2. Physician's Authorization for Special Health Care—for any procedure orders, i.e., blood glucose monitoring,

catheterization, etc., prescribed by a licensed provider that a student must receive during the school day.

3. Medication Order—for medication orders prescribed by a licensed provider that a student must receive during the school day.

4. Health Information—for pertinent health and emergency contact information provided by parents/legal guardians to the school district.

5. Authorization for Release of Confidential Information—required to be signed by parent/legal guardian before health information can be shared between the LEA and health care providers, i.e., hospital, physician, service agency, school RN, and/or other health provider.

D. These forms will be made available for download via the internet on the Louisiana DOE and the Louisiana Department of Health and Hospitals web sites.

E. The DOE, in collaboration with the Department of Health and Hospitals/Office of Public Health, will review the school health forms bi-annually and make revisions as needed.

F. Each LEA shall be monitored through the Department's NCLB Consolidated Compliance Monitoring process. LEAs that fail to implement the use of the standardized school health forms may be cited for non-compliance and requested to submit a corrective action plan.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:5.12.; 20 USCS 6301, et seq. and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2606 (December 2007).

Weegie Peabody
Executive Director

0712#044

RULE

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher Education Programs (LAC 28:XLV.205 and 207)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 996—Standards for Approval of Teacher Education Programs*: §205.Application for Second-Stage Approval and §207.Notification of Intent to Seek Full State Approval and/or Accreditation by the National Council for the Accreditation of Teacher Education (NCATE). The language clarifies the process of moving from second-stage approval to national accreditation or state approval by new or reinstated public and private teacher preparation units.

Chapter 2. Preliminary Approval or Second-Stage Approval for New or Reinstated Public and Private Teacher Preparation Units

§205. Application for Second-Stage Approval

A. Second-stage approval authorizes the institution to recommend candidates for certification, under limits stipulated in the conditions, for a period of one to three years.

B. Before the termination of second-stage approval, the unit shall present evidence that it has met preconditions to

seek full state approval and/or national accreditation or shall request that second-stage approval be extended. The State Board of Elementary and Secondary Education (SBESE) may grant only one such extension, for a period of one year, when problems are identified that require solution prior to notification of intent to seek full state approval and/or national accreditation. The application for second-stage approval must include the following items:

1. a narrative describing the institutional and teacher education unit mission, reflecting the teacher education unit as an integrated and integral part of the university, and reflecting a common mission of all colleges (e.g., College of Education, College of Arts/Sciences, etc.) within the institution responsible for the preparation of teachers. The narrative should specify beliefs that drive the institution and unit and may include the knowledge bases from which these beliefs developed;

2. a written description of the professional education unit that is primarily responsible for the preparation of teachers and other professional educational personnel. This may be a chart or a narrative that specifies all professional education programs offered by the institution and degrees awarded for each program, and an organizational chart showing the unit's relationship to other administrative units within the institution;

3. evidence that a dean, director, or chair is officially designated to represent the unit and has been assigned authority and responsibility for its overall administration and operation (e.g., a job description for the head of the professional education unit);

4. evidence of written policies and procedures that guide unit operation, including policies or procedures pertaining to candidates. This may be submitted as hard copy (e.g., catalogs, handbooks) or as instructions for accessing a website;

5. response to Louisiana Specific Standards /Rules/Guidelines, including Title 17 of the Louisiana Revised Statutes, Sections 7.1, 7.2, to ensure that the unit is meeting state law, that courses reflect content standards, that field experiences are included, that admissions requirements are met, etc.;

6. a description of the unit's system of monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This will reflect how the unit will assess programs, unit effectiveness, and candidates as well as how the unit will provide follow-up data on its graduates;

7. instrument(s) for assessing candidates for admission to and exit from the teacher preparation program. This would include requirements for entrance to teacher education programs, through transition points, and for successful program completion as well as procedures for remediation, if necessary;

8. full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies;

9. evidence of submission for state approval of all certification programs offered at the institution. By progressing through the full program approval process, programs will become sanctioned by the Louisiana Department of Education and the Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2453 (November 2004), amended LR 33:2607 (December 2007).

§207. Notification of Intent to Seek Full State Approval and/or Accreditation by the National Council for the Accreditation of Teacher Education (NCATE)

A. A minimum of six months prior to the end of second-stage approval, the institution seeking NCATE accreditation must submit an "Intent to Seek NCATE Accreditation" form to NCATE, with a copy sent to the Division Director, Certification and Preparation, Louisiana Department of Education. For universities seeking state approval only, a letter from the institution verifying its intent to seek full state approval must be submitted to the Division Director, Certification and Preparation, Louisiana Department of Education.

B. On or before the end of second-stage approval, the unit must meet requirements to satisfy NCATE preconditions as verified by NCATE or the Louisiana Department of Education. For those institutions seeking NCATE accreditation, a copy of the verification from NCATE must be submitted to the Division Director, Certification and Preparation, Louisiana Department of Education. For institutions seeking state approval only, the unit's preconditions must be sent to the Division Director, Certification and Preparation, Louisiana Department of Education for review. The department will notify the unit when preconditions have been met.

C. Within three years or less from the time at which an institution is notified that preconditions have been met, the unit must complete an NCATE visit or successfully meet state and NCATE standards through a state-only visit to become eligible for full state approval of its teacher education unit.

D. During the time between verification that preconditions have been met, the visit has been held, and national accreditation or state approval has been authorized, the institution must follow all NCATE and state protocols and timelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(11), R.S. 17:7(6), R.S. 17:7.2, R.S. 17:13.1, R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2454 (November 2004), amended LR 33:2608 (December 2007).

Weegie Peabody
Executive Director

0712#045

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Bylaws—Committee Membership
(LAC 28:V.101, 105 and 113)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1). This rulemaking amends Sections 101, 105 and 113 of the by-laws to revise the definition of "Assistant Executive Director," to provide a definition for "Deputy

Executive Director," to revise the composition of the executive staff and to update the manner of delegation of authority within the Office of Student Financial Assistance. (SG0886R).

**Title 28
EDUCATION**

**Part V. Student Financial Assistance—Higher
Education Loan Program**

**Chapter 1. Student Financial Assistance Commission
Bylaws**

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Assistant Executive Director (as used in these bylaws)—those persons appointed in the unclassified service as assistants to the executive director.

Deputy Executive Director (as used in these bylaws)—the principal assistant to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 26:1993 (September 2000), LR 33:435 (March 2007), LR 33:2608 (December 2007).

§105. Officers of the Commission and Executive Staff

A.1. - B. ...

C. Executive Staff. The executive staff of the commission shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the deputy executive director, the assistant executive directors, the general counsel, the directors of the divisions of the office, and such other personnel as may be required for the efficient performance of the functions of the commission. The executive staff shall be tasked, directed and supervised by the executive director.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1263 (July 1998), LR 33:2608 (December 2007).

**§113. Rights Duties and Responsibilities of the
Executive Staff of the Commission**

A. Executive Staff of the Commission

1. The executive staff shall be tasked, directed and supervised by the executive director.

A.2. - B.7. ...

C. Deputy Executive Director. The deputy executive director shall be the assistant executive director nominated by the executive director and confirmed by the commission to serve as the principal assistant to the executive director. He/She shall be responsible to the executive director for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations,

directives and memoranda issued by the executive director and the commission.

D. Assistant Executive Directors. The assistant executive directors shall be nominated by the executive director and confirmed by the commission. The assistant executive directors shall serve as assistants to the executive director. He/She shall be responsible to the executive director, and the deputy executive director in the absence of the executive director, for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations, directives and memoranda issued by the executive director and the commission.

E. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with state civil service laws, rules and regulations. Under the direction and authority of the executive director and the rules of the commission, each director shall administer the division for which he/she is appointed.

2. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

3. The directors may invite members of his/her administrative staff to aid him in his/her presentations to the commission.

F. Delegation of Authority. In the absence of the executive director, the deputy executive director, as delegated by the executive director, will assume the duties of the executive director during his/her absences. In the event both the executive director and the deputy executive director are absent, the executive director will appoint an incumbent of the assistant executive director positions to assume the duties of the executive director.

G. Recording Secretary. The executive director shall appoint a recording secretary whose duties shall include giving or causing to be given notice of all meetings of the commission and its committees as required by the Administrative Procedure Act or these bylaws, to record and prepare the minutes of all commission meetings and meetings of its committees and to maintain and provide for the safekeeping of all minutes and other official documents of the commission. The recording secretary shall have the authority to provide copies of the official records of the commission as required by the public records laws of the state of Louisiana or as otherwise directed by the commission or the executive director and to certify the authenticity of such records and the signatures of members of the commission, the executive director or others acting in their official capacity on behalf of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:812 (September 1996), amended LR 24:1265 (July 1998),

LR 25:654 (April 1999), LR 25:1091 (June 1999), LR 27:1218 (August 2001), LR 33:2608 (December 2007).

George Badge Eldredge
General Counsel

0712#023

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Scholarship/Grant Programs—Dual Enrollment
(LAC 28:IV.Chapter 14)**

The Louisiana Student Financial Assistance Commission (LASFAC) has amended and repromulgated the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

This rulemaking adds Chapter 14 to LASFAC's Scholarship/Grants Rules to implement the Louisiana Dual Enrollment Program. The program will provide Louisiana public high school students with an incentive to prepare for college or for employment. The program allows high school students to dually enroll in postsecondary academic courses, enrichment/development courses, and work skills courses. The program will pay participating postsecondary institutions up to \$300 per course at \$100 per credit hour, for each student who meet the program requirements and participated in the program. (SG0890R)

Title 28

EDUCATION

**Part IV. Student Financial Assistance- Higher
Education Scholarship and Grant Programs**

Chapter 14. Dual Enrollment Program

§1401. General Provisions

A. The Dual Enrollment Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission (LASFAC).

B. Description, History and Purpose. The Dual Enrollment Program is established to provide funding to Louisiana public postsecondary institutions that enroll eligible 11th and 12th grade Louisiana public high school students in college degree, developmental, or work skills courses. The purpose of the Dual Enrollment Program is to provide an incentive for qualified Louisiana public high school students to prepare for a postsecondary education or career.

C. Effective Date. Dual Enrollment Program payments shall be made beginning with the 2007-2008 award year to postsecondary institutions for 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Semesters/Terms. The Dual Enrollment Program will pay for enrollment in each college course during each semester or term of the academic year. Dual

Enrollment Program will not pay for summer semesters or sessions.

E. Award Amount. The Dual Enrollment Program will pay postsecondary institutions \$100 per college credit hour, not to exceed \$300 per course, for each course in which the student is eligible to enroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2609 (December 2007).

§1403. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term.

College Degree Course—a course in an academic subject at a Louisiana postsecondary institution that generates postsecondary institutional credit and appears on the current Board of Regents' Statewide General Education Course Articulation Matrix.

Enrichment/Developmental Course—an English or mathematics course at a Louisiana postsecondary institution that generates postsecondary institutional credit, but not degree credit, and is designed to prepare the student for college-level instruction.

Postsecondary Institution—Louisiana public colleges or universities.

Work Skills Course—a course at a Louisiana postsecondary institution in a skill or occupational training area that is designed to lead to an industry-based certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007).

§1405. Establishing Eligibility

A. To establish eligibility for the Dual Enrollment Program, all student applicants must meet the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;
2. be working towards and on track to complete the Regents/TOPS core curriculum by high school graduation;
3. have taken either the PLAN or ACT assessment and those scores are on file at the high school;
4. have completed and submitted a Dual Enrollment Program application to the high school in which the student is enrolled;
5. be approved by the high school in which the student is enrolled to participate in the program and to enroll in the course or courses; and
6. be enrolled in a course for which both high school and college credit is available and is for which a Dual Enrollment Program payment is made.

B. Enrollment in a College Degree Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT:

1. composite score of at least 17 to enroll in a college degree course;
2. English sub-score of at least 18 to enroll in an entry level English college degree course;
3. Mathematics sub-score of at least 18 to enroll in an entry level Mathematics college degree course.

C. Enrollment in an Enrichment/Developmental Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT:

1. composite score of at least 12 to enroll in an enrichment/developmental course;
2. English sub-score of at least 12 to enroll in an English enrichment/developmental course;
3. Mathematics sub-score of at least 12 to enroll in a mathematics enrichment/developmental course.

D. Enrollment in a Work Skills Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT Composite score of at least 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007).

§1407. Continuing Enrollment

A. To continue enrollment in subsequent semesters/terms in the Dual Enrollment Program, the student must:

1. have successfully completed and earned credit in the last course(s) in which a student enrolled through the Dual Enrollment Program. If the student resigns or withdraws from a course, the student must receive permission from both the high school and college to continue enrollment in subsequent semesters/terms;
2. be in good standing at the postsecondary institution;
3. continue to meet eligibility requirements in §1405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007).

§1409. Responsibilities of High Schools and School Boards

- A. The student's high school shall:
1. determine whether the student meets the initial eligibility criteria provided in §1405.A;
 2. approve or disapprove the student's participation in the program;
 3. approve the course or courses in which the student will enroll;
 4. provide to the postsecondary institution at which the student will be dually enrolled:
 - a. the student's approved application; and
 - b. the student's PLAN and/or ACT test scores, including sub-scores on those tests required to enroll to enroll in specific courses as provided in §1405.B.-D.
- B. By forwarding the student's application to the postsecondary institution, the student's high school certifies that it has determined that the student has met all criteria in §1405.A to participate in the Dual Enrollment Program and has approved the student's participation in the program and the course or courses in which the student will be enrolled.
- C. Upon completion of the course, the high school shall include the high school course, units attempted, units earned,

and course grade on the student's permanent high school transcript.

D. At the end of each semester or term of participation in the program, the student's high school shall determine whether the student has met the criterion in §1407.A.1 for continued enrollment in the Dual Enrollment Program. If the student is determined eligible and the high school approves the student's continued participation in the program, it shall so notify the postsecondary institution and provide the course or courses approved for enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2610 (December 2007).

§1413. Responsibilities of Louisiana Public Postsecondary Institutions

A. Each Louisiana public postsecondary institution that participates in the Dual Enrollment Program shall:

1. be responsible for determining that the student meets the PLAN or ACT eligibility criteria provided in §1405.B-D;

2. reserve Dual Enrollment Program funds when the student is accepted and enrolled in an appropriate course;

3. submit a payment request to LOSFA for students enrolled at the institution for whom a reservation was made as follows:

a. for each student eligible for the Dual Enrollment Program who is enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools;

b. Payment Request Amount. Each semester or term, the postsecondary institution in which a student is dually enrolled shall submit a payment request to LOSFA in the amount of \$100 per credit hour in which the student is enrolled, not to exceed \$300 for each college course;

c. the postsecondary institution may not charge the student any mandatory institutional and tuition fees for enrollment in a course paid for by the Dual Enrollment Program;

d. the payment request shall include the social security number, college code, high school code, term, date, college course type, hours attempted, and amount requested for each student;

4. for students who have been previously enrolled in the Dual Enrollment Program, determine whether the student is in good standing at that institution;

5. by submitting a payment request to LOSFA, the postsecondary institution certifies that:

a. the student meets the eligibility criteria provided in §1405.B-D for the college course in which the student is dually enrolled;

b. the student was enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools;

c. the student's high school has provided notice that the student is eligible for and has been approved to continue participation in the program; and

d. the student's high school has provided notice of the course or courses approved for enrollment;

e. the student is in good standing at the institution;

6. upon completion of the course, the postsecondary institution shall include the college course, credit attempted,

credit earned, and course grade on the student's permanent postsecondary education transcript.

B. Records Retention

1. Records pertaining to the Dual Enrollment Program are subject to audit as required by LOSFA, LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years. All such records shall be made available upon request by LOSFA, LASFAC, the Louisiana Board of Regents and the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007).

§1415. Responsibilities of the Board of Regents

A. The Board of Regents shall provide a student application to participate in the Dual Enrollment Program.

B. The Board of Regents shall maintain a Statewide General Education Course Articulation Matrix.

C. In the event that the funds appropriated for the Dual Enrollment Program are insufficient to pay for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007).

§1417. Responsibilities of LOSFA

A. Upon receipt of payment requests from institutions submitted in accordance with §1413.A, LOSFA shall pay the institution for each eligible student in accordance with §1413.

B. LOSFA shall conduct audits of the participating Louisiana public postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining eligibility for the Dual Enrollment Program.

D. LOSFA shall audit high schools and postsecondary institutions to ensure compliance with these rules.

E. LOSFA shall maintain a database of all students who have participated in the Dual Enrollment Program, including social security number, college code, high school code, term, date, college course type, hours attempted, payment amount, and aggregate amount paid.

F.1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available for all anticipated program payments for subsequent semesters and terms of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for all program payments anticipated for subsequent semesters and terms during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007).

§1419. Responsibilities of LASFAC

A. LASFAC shall promulgate administrative rules in accordance with the Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2612 (December 2007).

George Badge Eldredge
General Counsel

0712#020

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—Eligibility
(LAC 28:IV: 301, 703, and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended and repromulgated the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)]. (SG0888R)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance- Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Louisiana Resident—

a. - g.iv. ...

h. For any dependent student graduating from an out-of-state high school during the 2006-2007 academic year (high school) whose parent or court-ordered custodian was a member of the United States armed forces who, in the year 2006, moved from Louisiana under permanent change of station orders and retired from the armed forces, and changed his military personnel records to reflect a change of his state of legal residence from Louisiana to another state, shall meet the requirements of this Item, provided that such parent or court-ordered custodian changes his military personnel records from the other state to reestablish Louisiana as his state of legal residence no later than July 1, 2007, and has filed a Louisiana state income tax return for the two years preceding the date of the dependent's graduation from high school.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007).

**Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity,
Performance, and Honors Awards**

§703. Establishing Eligibility

A. - A.5.a.i.(e). ...

ii.(a). For students graduating in academic year (high school) 2007-2008 and prior, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
Civics	AP American Government

*Applied Mathematics III was formerly referred to as Applied Geometry

(b). For students graduating in academic year (high school) 2006-2007 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III

Core Curriculum Course	Equivalent (Substitute) Course
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

A.5.a.iii. - A.6.a.iii. ...

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

A.6.d.i. - A.8....

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - J.3.b.ii. ...

4. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana Distance Diploma from the Board of Elementary and Secondary Education must meet all of the requirements of §703.A – I.8 above, except as follows.

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007).

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. - A.7.a. ...

b.i. if qualifying under §803.A.5.b or c and is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301, an ACT composite of at least 20; or

ii. if qualifying under §803.A.5.b is a Louisiana Resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301, an ACT composite of at least 19; and

A.7.c. - B.3.b.ii. ...

4. To establish eligibility for a TOPS Tech Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana Distance Diploma from the Board of Elementary and Secondary Education must meet all of the requirements of §703.A. - I.8 above, except as follows.

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007).

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0712#022

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Scholarship/Grant Programs—Louisiana Go Grants
(LAC 28:IV.Chapter 12)**

The Louisiana Student Financial Assistance Commission (LASFAC) has amended and repromulgated the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

This rulemaking adds Chapter 12 to LASFAC's Scholarship/Grants Rules to implement the Louisiana GO Grant Program. The program will provide \$15,000,000 in need-based aid to Louisiana students in state fiscal year 2007-2008. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007, and \$15,000,000 has been included in the agency's budget for the 2007-2008 state fiscal year. (SG0889R)

Title 28

EDUCATION

**Part IV. Student Financial Assistance- Higher
Education Scholarship and Grant Programs**

Chapter 12. Louisiana GO Grant

§1201. General Provisions

A. Authority

1. In accordance with the requirements of Act 695 of the 2004 Regular Session of the Legislature, the Board of Regents developed the GO Grant Program. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007.

2. The Louisiana GO Grant Program is administered by the Louisiana Office of Student Financial Assistance in accordance with the approved program and a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission.

B. Description, History and Purpose. The Louisiana GO Grant assists those students who can demonstrate financial need to pay for the cost of postsecondary education. The GO Grant is used to pay a portion of the cost of attendance at an eligible Louisiana postsecondary institution.

C. Maximum Award Amount

1. The maximum annual award for any student is \$2,000 per academic year.

2. The annual award amount for students who enroll less than full time shall be reduced based on the maximum amount the postsecondary institution is authorized to submit a payment request in §1211.C.2.

3. The maximum total lifetime award amount for any student is \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2614 (December 2007).

§1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these Rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term of the award year. Summer terms may be included in the academic year if the post-secondary institution provides students with Pell grants or financial need grants during the summer session, in which case, the academic year culminates with the summer session.

Administering Agency—the Louisiana Student Financial Assistance Commission through the Louisiana Office of Student Financial Assistance or LOSFA.

Age—a student's age is calculated by subtracting his birth year from the academic begin year he begins college enrollment. For example, a student who is born in 1983 who enrolls in college during the fall semester of 2007 or the spring semester of 2008 is 24.

Cost of Attendance—the total cost for a student to attend a particular postsecondary institution, usually expressed as an academic year figure. This cost shall be determined by the postsecondary institution attended in compliance with Title IV of the Higher Education Act of 1965, as amended, and shall be annually updated and adopted by the institution.

Credit-bearing Course—a course in which postsecondary education credit is attempted.

Dependent Student—a student who does not qualify as an independent student and is deemed to be dependent on his parents for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Education Allowance—\$2,000 per academic year.

Education Cost Gap (ECG)—

a. for postsecondary institutions, except a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program, the Louisiana Basic College Costs (LBCC) minus the federal Pell grant amount for a full time student;

b. for a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program, the Louisiana Basic College Costs (LBCC) minus the financial need grant amount at that institution for a full time student.

Enrollment—registration in programs of study for which a student may receive a Pell Grant or a financial need grant at a postsecondary institution.

Federal Pell Grant—the Pell Grant provided under Title IV of the Higher Education Act of 1965, as amended.

Financial Need Grant—an institutional grant provided by the state for students with financial need as evidenced by the data reported on the FAFSA at a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program.

First-time Freshman—a student who, after high school graduation, has never attended any college or other postsecondary institution, including students enrolled in the fall term who attended college for the first time in the prior summer term after high school graduation and students who entered with advanced standing (college credits earned before graduation from high school).

Full Time—a student enrolled in a postsecondary institution who is considered program full time by the school, or is enrolled in at least 12 semester credit hours, or 8 hours at a term school.

Go Grant Award Amount—the award amount actually paid during an academic year.

Half Time—a student enrolled in a postsecondary institution who is not full time but is enrolled in at least 6 semester credit hours, or 4 hours at a term school.

Independent Student—a student who meets at least one of the criteria listed in Subparagraphs a-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is currently serving on active duty for purposes other than training or is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Less Than Half Time—a student enrolled in a postsecondary institution who is not full time and is enrolled in less than 6 semester credit hours or 4 hours at a term school.

Louisiana Basic College Costs (LBCC)—

a. for students enrolled at Louisiana public postsecondary institutions, the tuition and mandatory fees that are assessed a full time student for enrollment during the academic year at that institution, not including summer semesters or sessions, as approved on a yearly basis by the Louisiana Board of Regents, plus the education allowance;

b. for students enrolled at regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities, the average tuition and mandatory fees for full time students at the four year public postsecondary institutions, plus the education allowance.

Louisiana Resident—

a. A dependent or independent student whose true, fixed, and permanent home of residence is Louisiana as reported on the Free Application for Federal Student Aid (FAFSA).

b. A dependent student whose non-custodial parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency.

c. A dependent student whose parent is transferred out of Louisiana temporarily by his/her employer and that

parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency.

d. A dependent student whose parent is on active duty in the Armed Forces and who is stationed in Louisiana under permanent change of station orders, or an independent student who is on active duty military status in the Armed Forces and is stationed in Louisiana under permanent change of station orders.

e. If the dependent or independent student does not report Louisiana as his true, fixed, and permanent home of residence as Louisiana on the FAFSA, the administering agency may require an independent student applicant or the parent of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voter registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

Over Award—an over award occurs when a student receives financial aid in excess of the cost of attendance or an award under state programs to which the student was not entitled.

Postsecondary Institution—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities and a Louisiana public college that has been granted regional candidacy status, but is not yet eligible to participate in Title IV programs, may award students a Go Grant. Candidacy status institutions must require students to complete a FAFSA and the institution must determine a student's eligibility in accordance with rules under this Chapter.

Program Full Time—a student is enrolled in a degree program at a postsecondary institution that the institution defines full-time as less than 12 hours per semester or eight hours per term.

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a GO Grant recipient is enrolled for measuring a student's progress in his or her educational program.

Undergraduate Program—a program of study that is designed to lead to a certificate or undergraduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2615 (December 2007).

§1205. Application and Initial Eligibility

A. Application. A student must complete the Free Application for Federal Student Aid for the year during which he intends to enroll in college.

B. Initial Eligibility. In order to be eligible for a Louisiana GO Grant, a student must:

1. be a Louisiana resident; and
2. receive a federal Pell grant or a financial need grant; and
3. have an Education Cost Gap (ECG) greater than \$0; and
 - 4.a. be a student who entered college as a first time freshman during academic year 2007-2008 or later; or
 - b. be a student who is age 24 or younger who entered college as a first time freshman during academic year 2007-2008 or later; or
 - c. be a student who is age 25 or older and who has had a break in enrollment of at least two consecutive semesters, not including a summer semester or term, immediately preceding the period of enrollment for which the student is being considered for receipt of a grant under this Chapter;
5. not have a criminal conviction, except for misdemeanor traffic violations.

C. In order to receive a grant under this Chapter, an eligible student must be enrolled in an undergraduate program at a postsecondary institution through the 14th class day (9th class day at quarter and term schools).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007).

§1207. Continuing Eligibility

A. Application. A student must complete the Free Application for Federal Student Aid or the Renewal Application for each year he enrolls in college to be considered for a Pell Grant and the Go Grant.

B. A student's eligibility will be reevaluated on the same schedule as eligibility for a federal Pell grant or a financial need grant is determined at the institution, but at least once annually.

1. The student must continue to receive the federal Pell grant or a financial need grant.
2. The student must still have an education cost gap greater than \$0 as determined using the ECG formula.
3. The student must have maintained satisfactory academic progress as defined by the institution in which he is enrolled in accordance with the Higher Education Act of 1965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007).

§1209. Eligibility of Postsecondary Institutions

A. Postsecondary Institutions Eligible to Participate

1. Postsecondary institutions that provide undergraduate programs.
2. Regionally accredited private colleges and universities that are members of the Louisiana Association

of Independent Colleges and Universities, Inc. (LAICU). As of July 2007, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Baptist Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

B. Audits

1. Postsecondary institutions that participate in the Louisiana GO Grant program grant LOSFA and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2616 (December 2007).

§1211. Responsibilities of Postsecondary Institutions

A. Initial Eligibility

1.a. Postsecondary institutions must determine whether the student meets the criterion in Subparagraph a of the definition of Louisiana resident in §1203.

b. If this criterion is not met, the student may request that LOSFA make a determination of residency under Subparagraph e of the definition of *Louisiana Resident* in §1203.

2. Postsecondary institutions must determine whether a student meets the initial eligibility criteria enumerated in §1205.B.2-4.

B. Continuing Eligibility

1. Postsecondary institutions must determine whether a student meets the continuing eligibility criteria enumerated in §1207 on the same schedule as eligibility for a Pell grant or a financial need grant is determined at the institution, but at least once annually.

C. Submission of Payment Requests. Each semester or term, postsecondary institutions shall submit a payment request to LOSFA for students enrolled at the institution who have been determined eligible for a Louisiana GO Grant as follows.

1. For each student eligible for a Louisiana GO Grant who is enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session.

2. Payment Request Amount

a. \$1,000 per semester for a student enrolled full time after the 14th class day in a postsecondary institution that operates on a semester basis or \$667 (\$666 for the final term of the award year) per term for a student enrolled full time after the 9th class day in a postsecondary institution that operates on a term basis;

b. \$500 per semester for a student enrolled half time after the 14th class day in a postsecondary institution that operates on a semester basis or \$333 (\$334 for the final term) per term for a student enrolled half time after the 9th class day in a postsecondary institution that operates on a term basis;

c. \$250 per semester for a student enrolled less than half time after the 14th class day in a postsecondary institution that operates on a semester basis or \$167 (or \$166 for the final term) per term for a student enrolled half time after the 9th class day in a postsecondary institution that operates on a term basis;

d. for summer sessions, the difference between what the student was paid during the preceding fall semester or term, winter term, if applicable, and spring semester or term and the student's maximum annual award amount; provided the award for the summer session shall not exceed \$1,000.

3. The payment request shall include the social security number, college code, term, date, hours attempted, award amount, education cost gap and amount requested for each student.

4. For students who are enrolled in more than one postsecondary institution, the home school (school paying the Pell grant or a financial need grant) is responsible for submitting a payment request for the Go Grant based on the total hours enrolled at all institutions.

D. Over Payments

1. No institution shall submit a payment request for GO Grant funds which would result in a student receiving an annual total of more than is authorized in §1201.C.

2. Postsecondary Institutions certify by submitting a payment request for a GO Grant that the institution will reimburse LOSFA for any award funds that are disbursed to ineligible students, in excess of the maximum annual award or in excess of the maximum lifetime award.

E. Over Award

1. In the event the student's total aid, including vocational rehabilitation awards, exceeds the cost of attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Louisiana GO Grant, then a TOPS Award, if applicable, shall be reduced by the amount of any remaining over award.

F. Records Retention.

1. Records pertaining to the payment requests for Louisiana GO Grants are subject to audit as required by LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years from creation. All such records shall be made available upon request by LASFAC, the Louisiana Board of Regents and/or the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007).

§1213. Responsibilities of LOSFA

A. LOSFA shall pay each postsecondary institution an amount equal to that amount in a payment request by the postsecondary institution in accordance with the provisions of §1211.C.

B. LOSFA shall determine the residency of students who do not meet the criteria enumerated in Subparagraph a of the definition of *Louisiana resident* in §1203 and notify postsecondary institutions of its determination(s).

C. LOSFA shall maintain a database of all students who have received the GO Grant, including social security number, college code, term, date, hours attempted, award amount, education cost gap amount, annual amount received, and aggregate amount received. In the event LOSFA receives a payment request for a student in an amount that would exceed the student's eligibility, LOSFA will pay only that amount that will not exceed the student's eligibility.

D. Adequacy of Funding

1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available to pay all anticipated awards for subsequent semesters, terms and sessions of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

E. LOSFA shall audit postsecondary institutions to ensure compliance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007).

§1215. Responsibilities of LASFAC

A. LASFAC shall promulgate administrative rules in accordance with the Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2618 (December 2007).

George Badge Eldredge
General Counsel

0712#021

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Bylaws—Committee Membership
(LAC 28:VII.101, 105 and 113)

The Louisiana Tuition Trust Authority has amended its Bylaws (R.S. 17:3091 et seq.). This rulemaking amends Sections 101, 105 and 113 of the by-laws to provide definitions for "Assistant Executive Director" and "Deputy Executive Director", to revise the composition of the executive staff and to update the manner of delegation of authority within the Office of Student Financial Assistance (ST0887R).

**Title 28
EDUCATION**

Part VII. Tuition Trust Authority

Chapter 1. Bylaws

§101. Definitions and Authority

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Assistant Executive Director (as used in these bylaws)—those persons appointed in the unclassified service as assistants to the executive director.

* * *

Deputy Executive Director (as used in these bylaws)—the principal assistant to the executive director.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1653 (December 1997), amended LR 26:2269 (October 2000), LR 33:444 (March 2007), LR 33:2618 (December 2007).

§105. Officers of the Authority and Executive Staff

A. - B. ...

C. Executive Staff

1. The executive staff of the authority shall include the incumbent of those positions within the Office of Student Financial Assistance so designated by the executive director and will normally be composed of the executive director, the deputy executive director, the assistant executive directors, the general counsel, the directors of the designated divisions within the office, and such other personnel as may be required for the efficient performance of the functions of the authority.

C.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1654 (December 1997), amended LR 33:2618 (December 2007).

§113. Rights, Duties and Responsibilities of Executive Staff of the Authority

A. Executive Staff of the Authority

1. The executive staff shall be tasked, directed and supervised by the executive director.

2. Unless otherwise directed by the executive director, the executive staff shall attend the meetings of the authority and its various committees.

B. - B.6. ...

C. Deputy Executive Director. The deputy executive director shall be the assistant executive director nominated by the executive director and confirmed by the authority to serve as the principal assistant to the executive director. He/She shall be responsible to the executive director for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations, directives and memoranda issued by the executive director and the authority.

D. Assistant Executive Directors. The assistant executive directors shall be nominated by the executive director and

confirmed by the authority. The assistant executive directors shall serve as the principal assistants to the executive director. He/She shall be responsible to the executive director, and the deputy executive director in the absence of the executive director, for the effective performance of all duties assigned by the executive director, in accordance with the policies, rules, regulations, directives and memoranda issued by the executive director and the authority.

E. Delegation of Authority

1. In the absence of the executive director, the deputy executive director, as delegated by the executive director during his/her absences, will assume the duties of the executive director.

2. In the event both the executive director and the deputy executive director are absent, the executive director will appoint an incumbent of the assistant executive director positions to assume the duties of the executive director.

F. Directors of Divisions

1. There shall be a director for each division of the Office of Student Financial Assistance, appointed by the executive director in accordance with State Civil Service laws, rules and regulations.

2. Under the direction and authority of the executive director, each director shall administer the division for which he/she is appointed.

3. As the administrative head of a division, the director shall be responsible to the executive director for planning, supervising, directing, administering and executing the functions and programs assigned to the division in accordance with all applicable laws, rules, regulations, policies, directives, and budgets.

4. The directors may invite members of his/her administrative staff to aid in his/her presentations to the authority.

G. Recording Secretary. The executive director shall appoint a recording secretary whose duties shall include giving or causing to be given notice of all meetings of the authority and its committees as required by the Administrative Procedure Act or these bylaws, to record and prepare the minutes of all authority meetings and meetings of its committees and to maintain and provide for the safekeeping of all minutes and other official documents of the authority. The recording secretary shall have the authority to provide copies of the official records of the authority as required by the public records laws of the state of Louisiana or as otherwise directed by the authority or the executive director and to certify the authenticity of such records and the signatures of members of the authority, the executive directors or others acting in their official capacity on behalf of the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3093 et seq.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:1656 (December 1997), amended LR 25:1092 (June 1999), LR 33:444 (March 2007), LR 33:2618 (December 2007).

George Badge Eldredge
General Counsel

0712#019

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Comprehensive Toxic Air Pollutant
Emission Control Program
(LAC 33:III.211, 223, 551, 5101, 5103,
5105, 5107, 5109, 5111, and 5112)(AQ256)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.211, 223, 551, 5101, 5103, 5105, 5107, 5109, 5111, and 5112 (Log #AQ256).

The air toxics rule has been in effect for 15 years. It currently contains dated language that needs to be removed or modified. Updating the rule also addresses requests from industry to streamline the rule. This rule revises the air toxics rule in the following ways: eliminates obsolete rule language and most rule language concerning compliance plans and certifications of compliance; removes obsolete department requirements; clarifies area (minor) and major source requirements; utilizes applicable federal Maximum Achievable Control Technology (MACT) rules (40 CFR Part 63) for state MACT; eliminates the exemption for electric steam generating units; exempts virgin fossil fuels gas streams not containing TAPS at chemical plants; moves discharge reporting requirements to LAC 33:I.Chapter 39; advances the submittal of the Toxic Emissions Data Inventory (TEDI) reports to not later than March 31 of each year; exempts area (minor) sources from submitting TEDI reports; and revises public notice requirements.

The department made substantive changes to address comments received during the public comment period of proposed rule AQ256. In LAC 33:III.223, Note 13 to Table 2 is revised for clarity. The exemption for electrical utility steam generating units is reinstated in LAC 33:III.551 and 5105. The definitions of *potential to emit* and *virgin fossil fuel* have been revised in LAC 33:III.5103. In LAC 33:III.5105, the exemption for the combustion of virgin fossil fuels has been reworded. Revisions for clarity are made in LAC 33:III.5107, 5109, and 5111. A footnote has been added to Table 51.2 in LAC 33:III.5112.

The department made revised substantive changes to address comments received during the public comment period for the substantive changes to the proposed rule, AQ256S. LAC 33:III.5105.B.3.c is revised to provide for the continuing exemption of emissions from the combustion of refinery fuel gas and to clarify that the emissions from the combustion of fuel gas systems are also exempt from the provisions of LAC 33:III.Chapter 51. Also, the discharge reporting requirements in LAC 33:III.5107.B that were deleted in the original proposed rule, AQ256, are reinstated in the regulations.

The basis and rationale for this Rule are to update the Louisiana Ambient Air Quality Standards to ensure continued protection of human health and the environment.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. Formula to Apportion Fees

Air Toxics Permits Application Fee for major sources of toxic pollutants (based on type of facility and on rated production capacity/throughput)	Surcharge of 10% of the permit application fee to be charged when there is an increase in toxic air pollutant emissions above the Minimum Emission Rates (MER) listed in LAC 33:III.5112, Table 51.1
Air Toxics Annual Emissions Fee for major sources of toxic air pollutants (based on air toxic pollutants emitted) ¹	Variable
Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	Variable
Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50% of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25% of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation
¹ Fees shall be assessed on major sources as defined in LAC 33:III.5103. Sources that have reduced emissions below major source thresholds are not required to submit annual emissions reports in accordance with LAC 33:III.5107.	

B. - B.13.e. ...

14. Air Toxics Annual Emissions Fees based on actual annual emissions that occurred during the previous calendar year shall be assessed on *major sources* as defined in LAC 33:III.5103.

15. - 15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the

Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007).

§223. Fee Schedule Listing

Table 1. - Table 2, Note 12. ...

Note 13. Fees will be determined by aggregating and rounding (e.g., parts of a ton less than 0.50 are invoiced as zero and parts of a ton equal to or greater than 0.50 are invoiced as one ton) actual annual emissions of each class of toxic air pollutants (as delineated in the tables in LAC 33:III.5112) for a facility and applying the appropriate fee schedule for that class. If a facility emits more than 4000 tons per year of any single toxic air pollutant, fees shall be assessed on only the first 4000 tons. In no case shall the fee for this category be less than \$132.

Note 14. - Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007).

Chapter 5. Permit Procedures

§551. Hazardous Air Pollutant (HAP) Control

Technology Requirements for New Sources

A. - B. Similar Source. ...

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. *electric utility steam generating units*, as defined in LAC 33:III.5103.A;
2. stationary sources that are within a source category that has been deleted from the source category list in accordance with Section 112(c)(9) of the Clean Air Act; and
3. *research and development activities*, as defined in Subsection B of this Section.

D. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:913 (May 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5101. Applicability

A. The provisions of this Subchapter and LAC 33:III.905 apply to the owner or operator of any *major source*, as defined in LAC 33:III.5103, unless exempted under LAC 33:III.5105.B.

B. The provisions of LAC 33:III.905, 5105.A.1, 3, and 4, and 5113 apply to the owner or operator of any stationary source that was a major source upon promulgation of this Subchapter (as of December 20, 1991), but that has achieved minor source status through reduction of emissions and reduction of potential to emit.

C. The provisions of this Subchapter do not apply to the consumer use, in a duration and frequency intended by the manufacturer, of products obtained through retail commerce, or to activities conducted on residential property. The provisions of this Subchapter do not apply to the distribution or application of pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:56 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007).

§5103. Definitions, Units, and Abbreviations

A. The terms in this Subchapter are used as defined in LAC 33:III.111 except for those terms defined herein as follows.

* * *

Potential to Emit—the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of the design if the limitation or the effect it would have on emissions is specified by an existing state permit or a permit issued under a program to prevent the significant deterioration of air quality.

* * *

Source Category—a classification of sources identified by EPA pursuant to Section 112(c) of the Federal Clean Air Act.

* * *

Virgin Fossil Fuel—any solid, refined solid, refined liquid, or refined or natural gaseous fossil fuel with a Btu content greater than 7,000 Btu/lb that is not blended with reprocessed or recycled fuels. Group 1 *virgin fossil fuels* consist of natural gas, liquid petroleum gas, distillate fuel oil, gasoline, and diesel fuel. Group 2 *virgin fossil fuels* consist of coal, residual fuel oil, and petroleum coke.

* * *

B. - B.4, std. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1362 (December 1992), LR 23:57 (January 1997), LR 24:1276 (July 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2621 (December 2007).

§5105. Prohibited Activities and Special Provisions

A. - A.1. ...

2. After December 20, 1991, no owner or operator of any major source shall cause a violation of any ambient air standard listed in LAC 33:III.5112, Table 51.2, unless operating in accordance with LAC 33:III.5109.B.

A.3. - B.1. ...

2. Electric utility steam-generating units are exempt from the requirements of this Subchapter.

3. Each of the following emissions are exempt from the requirements of this Subchapter:

a. emissions from the combustion of Group 1 virgin fossil fuels;

b. emissions from the combustion of Group 2 virgin fossil fuels vented from a stack that has downwash minimization stack height or a height approved by the department; and

c. emissions from the combustion of gas streams with a Btu value of greater than 7,000 Btu/lb that are generated by onsite operations, collected by a *fuel gas system* as defined in 40 CFR Part 63, Subpart G, and used as fuel.

4. Any source, as defined in accordance with rules promulgated by the United States Environmental Protection Agency under provisions in Section 112(i)(5) of the federal Clean Air Act, that is in compliance with an enforceable commitment approved by the administrative authority* to achieve early reductions of 90 percent or more (95 percent for particulates), or that has demonstrated early reductions of 90 percent or more (95 percent for particulates), in accordance with such rules, shall be exempt from MACT requirements under LAC 33:III.5109.A. The term of exemption shall extend until such time as the compliance extension granted by the administrative authority or the U.S. Environmental Protection Agency has expired, or until nine years from the anticipated date of promulgation of applicable federal MACT standards according to the schedule published by the U.S. Environmental Protection Agency in accordance with Section 112(e)(3) of the federal Clean Air Act, whichever date is earlier. Under no circumstances shall this provision be used to grant an exemption to a source under conditions that do not result in a net air quality benefit for the state of Louisiana, as determined by the administrative authority. Under no circumstances shall the granting of such an exemption to a source relieve any source of other obligations under state or federal law.

5. In accordance with R.S. 30:2060, except under circumstances that may reasonably be expected to pose a threat to human health, whether or not such units are in a contiguous area or under common control, in determining the applicability of emission standards or technical control standards the administrative authority shall not aggregate:

a. emissions from any oil or gas exploration or production well and its associated equipment;

b. emissions from any pipeline compressor or pump station; or

c. emissions from other similar units.

6. The emissions from the remediation of a RCRA, CERCLA, or any nonregulated inactive or abandoned waste site cleanup shall be exempt from the ambient air standards of LAC 33:III.5112, Table 51.2, upon approval of the cleanup plan by the administrative authority.

7. Emissions from the combustion of wood residue fuel from pulp and paper mills are exempt from the provisions of LAC 33:III.5109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:2104 (December 1991), amended LR 18:1362 (December 1992), LR 21:370 (April 1995), LR 23:58 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2621 (December 2007).

§5107. Reporting Requirements, Availability of Information, and Public Notice Provisions

A. Annual Emissions Reporting. The owner or operator of any major source that meets the applicability requirements in LAC 33:III.5101.A and emits any toxic air pollutant listed in LAC 33:III.5112, Table 51.1 or 51.3, shall submit a completed annual emissions report to the Office of Environmental Assessment in a format specified by the department. The owner or operator shall identify on the emissions report the quantity of emissions in the previous calendar year for any such toxic air pollutant emitted. Beginning with the report due in 2008, the annual emissions report shall meet the following requirements.

1. The owner or operator of any major source subject to the requirements in this Subsection shall submit a completed annual emissions report to the Office of Environmental Assessment on or before March 31 of each year, unless otherwise directed by the administrative authority, that shall identify the quantity of emissions of all toxic air pollutants listed in LAC 33:III.5112, Table 51.1 or 51.3, for the previous calendar year.

2. Annual emissions reports and revisions to any emissions report shall include a certification statement that attests that the information contained in the emissions report is true, accurate, and complete, and that is signed by a *responsible official*, as defined in LAC 33:III.502. The certification statement shall include the full name of the responsible official, his or her title and signature, the date of the signature, and the phone number of the responsible official.

B. Discharge Reporting Requirements

1. Emergency Conditions. For any discharge of a toxic air pollutant into the atmosphere that results or threatens to result in an emergency condition (a condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water or air environment, or cause severe damage to property), the owner or operator of the source shall immediately, but in no case later than one hour, notify the Department of Public Safety 24-hour Louisiana Emergency Hazardous Materials Hotline at (225) 925-6595 (collect calls accepted 24 hours a day).

2. Emission Control Bypasses. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge into the atmosphere of a toxic air pollutant as a result of bypassing an emission control device, when the emission control bypass was not the result of an upset, and the quantity of the unauthorized bypass is greater than or equal to the lower of the Minimum Emission Rate (MER) in LAC 33:III.5112, Table 51.1, or a reportable quantity (RQ) in LAC 33:I.3931, or the quantity of the unauthorized bypass is greater than one pound and there is no MER or RQ for the substance in question, the owner or operator of the source shall provide prompt notification to SPOC of the bypass no later than 24 hours after the beginning of the bypass in the manner provided in LAC 33:I.3923. Where the emission

control bypass was the result of an upset, the owner or operator shall comply with Paragraph B.3 of this Section.

3. Nonemergency Conditions. Except as provided in Paragraph B.6 of this Section, for any unauthorized discharge of a toxic air pollutant into the atmosphere that does not cause an emergency condition, the rate or quantity of which is in excess of that allowed by permit, compliance schedule, or variance, or for upset events that exceed the reportable quantity in LAC 33:I.3931, the owner or operator of the source shall immediately, but in no case later than 24 hours, provide prompt notification to SPOC in the manner provided in LAC 33:I.3923.

4. Written Reports. For every such discharge or equipment bypass as referred to in Paragraphs B.1, 2, and 3 of this Section, the owner or operator shall submit to SPOC a written report by certified mail within seven calendar days of learning of the discharge.

a. The report shall contain the following information:

- i. the identity of the source;
- ii. the date and time of the discharge;
- iii. the cause of the discharge;
- iv. the approximate total loss during the discharge;
- v. the method used for determining the loss;
- vi. any action taken to prevent the discharge;
- vii. the action taken to minimize the discharge; and
- viii. the measures adopted to prevent future discharges.

b. If written notification of the discharge or bypass is required to be submitted pursuant to LAC 33:I.3925, such notification shall fulfill the obligation to submit a written report under this Paragraph.

5. All discharges to the atmosphere of a toxic air pollutant from a safety relief device, a line or vessel rupture, a sudden equipment failure, or a bypass of an emission control device, regardless of quantity, if they can be measured and can be reliably quantified using good engineering practices, must be reported to the department along with the annual emissions report and where otherwise specified in the applicable subchapters. The report shall include the following information:

- a. the identity of the source;
- b. the date and time of the discharge; and
- c. the approximate total loss during the discharge.

6. Leaks detected pursuant to specific leak detection and elimination requirements of any Subchapter of this Chapter shall be recorded and/or reported as required in that Subchapter and shall not be subject to Paragraphs B.2, 3, and 4 of this Section.

C. ...

D. Public Notice Provisions. The administrative authority shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing before granting approval for construction or issuing any permit that would:

1. allow a permitted increase in any Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate; or

2. allow the addition of any new point source or emission unit that would emit a Class 1 or Class 2 Louisiana toxic air pollutant by an amount greater than the minimum emission rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and 2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:890 (July 1993), amended by the Office of the Secretary, LR 19:1022 (August 1993), repromulgated LR 19:1142 (September 1993), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:58 (January 1997), LR 24:1276 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2004 (September 2000), LR 26:2460 (November 2000), LR 29:2778 (December 2003), LR 30:1673 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:2093 (October 2007), LR 33:2622 (December 2007).

§5109. Emission Control and Reduction Requirements and Standards

A. Maximum Achievable Control Technology (MACT) Requirements

1. The owner or operator of any major source that emits or is permitted to emit a Class I or Class II toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that pollutant in LAC 33:III.5112, Table 51.1, shall control emissions of that toxic air pollutant to a degree that constitutes Maximum Achievable Control Technology (MACT) as approved by the administrative authority.

2. Compliance with an applicable federal standard promulgated by the US EPA in 40 CFR Part 63 shall constitute compliance with this Subsection for emissions of toxic air pollutants.

3. MACT determination for sources not regulated by a federal MACT standard shall be determined by the administrative authority through the permitting process using the existing state MACT determination method or protocol.

B. Ambient Air Standard Requirements. The owner or operator of any major source that emits, or is permitted to emit, any toxic air pollutant at a rate equal to or greater than the minimum emission rate listed for that toxic air pollutant shall determine the status of compliance, beyond the source's property line, with applicable ambient air standards listed in LAC 33:III.5112, Table 51.2. (See LAC 33:III.5105.A.2.)

1. New major sources shall demonstrate compliance with an ambient air standard in an application for a permit in accordance with LAC 33:III.5111.

2. The owner or operator shall achieve compliance with the ambient air standard unless the owner or operator demonstrates to the satisfaction of the administrative authority:

- a. that compliance with an ambient air standard would be economically infeasible;
- b. that the source's emissions could not reasonably be expected to pose a threat to public health or the environment; and
- c. that the source's emissions would be controlled to a level that is Maximum Achievable Control Technology.

3. The administrative authority shall publish a public notice of and hold a public hearing on any preliminary determination to allow a source to exceed the ambient air standard for any toxic air pollutant listed in LAC 33:III.5112, Table 51.2. Within 90 days after the close of the public hearing on the preliminary determination, the

administrative authority shall make a final determination, which is subject to review on a five-year basis or at any other time deemed appropriate by the administrative authority.

4. The administrative authority shall periodically, at least every 36 months, review and update the ambient air standards listed for each toxic air pollutant in LAC 33:III.5112, Table 51.2.

C. Standard Operating Procedure Requirements

1. The requirements of this Subsection do not apply to emissions of any of those pollutants listed in LAC 33:III.5112, Table 51.3, or to sources complying with applicable federal standards in 40 CFR Part 63.

2. The owner or operator of any new or existing source required to report emissions in accordance with LAC 33:III.5107.A shall develop a standard operating procedure (SOP) within 120 days after achieving or demonstrating compliance with the standards specified in this Chapter. The SOP shall detail all operating procedures or parameters established by the owner or operator to ensure that compliance with the applicable standards is maintained, and shall address, but not be limited to, operating procedures for any monitoring system in place, specifying procedures to ensure compliance with LAC 33:III.5113.C.5. A written copy of the SOP must be available on site or at an alternate approved location for inspection by the administrative authority. A copy of the SOP must be provided within 30 days upon request by the department.

D. Compliance Timing

1. The department may take appropriate enforcement action to address the failure by an existing major source to submit a Compliance Plan or Certification of Compliance, which submittal was required by Paragraph A.1 or 2, and Paragraph B.1 or 2, of this Section as promulgated in the *Louisiana Register* on December 20, 1991, at LR 17:1204, until December 20, 2007.

2. A new source shall be in compliance with the MACT regulations upon initial start-up of the source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), LR 23:59 (January 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2623 (December 2007).

§5111. Permit Requirements, Application, and Review

A. Major Source Permit Requirements. Before commencement of the construction of any new source or any modification that will result in an increase in emissions of any toxic air pollutant or will create a new point source that emits a toxic air pollutant, the owner or operator of such source shall obtain a Louisiana air permit in accordance with LAC 33:III.501 and Subsection B of this Section and in accordance with LAC 33:I.1701.

B. Contents of Application for a Louisiana Air Permit

1. - 2.b. ...

c. technical information describing the proposed nature, size, design, operating design capacity, and method of operation of the source, including a description of intended controls and monitoring procedures. Such technical information shall include estimation of emissions prior to and after installation of emission control equipment or

adoption of control measures, calculations of emission estimates in sufficient detail to allow assessment of the validity of the calculations, and documentation of methods or sources of information used in these determinations. Emissions of toxic air pollutants shall be speciated to identify each toxic air pollutant emitted from each emission point at the source and to identify fugitive emissions of toxic air pollutants.

3. Each application for a permit to modify an existing major source facility shall include, in addition to the information required in Paragraph B.2 of this Section, the following information:

a. - b. ...

c. calculations of estimates of emissions before and after the changes are completed, in sufficient detail to allow assessment of the validity of the calculations;

d. for sources that have been operating in Louisiana for a period of at least five years, a listing of all violations of Louisiana air quality laws or regulations for which the owner or operator is responsible, including all violations for which a compliance schedule has been established and which have been cited in administrative enforcement actions by the department, and for which all rights of review and appeal have been exhausted. Applicants under a compliance schedule shall also demonstrate that they have made satisfactory progress in meeting the conditions of the compliance schedule. Applicants shall also provide a listing of all administrative or judicial actions taken against the owner or operator within the last five years under Louisiana environmental laws or regulations, including emergency cease and desist orders, notices of violation, compliance orders, penalty notices, or other administrative orders and any administrative or judicial proceedings that could result

in such actions, and any other compliance history information requested by the administrative authority;

e. for sources that have not been operating in Louisiana for at least five years, a listing of all enforcement actions taken against the owner or operator for violations of United States federal or state environmental laws or regulations, and any other compliance history information requested by the administrative authority.

4. Any application corresponding to a major source that emits or is permitted to emit any Class I or Class II toxic air pollutant shall include a description of all federal standards (i.e., any standards promulgated by the US EPA in 40 CFR Part 63) and compliance methods applicable to units being permitted.

5. The department may request a dispersion modeling report demonstrating compliance with the ambient air standard developed by the owner or operator in accordance with the department's air toxics modeling procedures.

6. The owner or operator shall provide such other pertinent information as may be necessary for a complete understanding of the application that is being reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993), repromulgated LR 19:1314 (October 1993), amended LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2447 (October 2005), LR 33:2093 (October 2007), LR 33:2623 (December 2007).

§5112. Tables—51.1, 51.2, 51.3

Table 51.1, Class I. – Class II. ...

Table 51.1 Minimum Emission Rates Toxic Air Pollutants Class III. Acute and Chronic (Non-Carcinogenic) Toxins			
Compound	CAS Number	Synonyms	Minimum Emission Rate (Pounds/year)
* * *			
[See Prior Text in Acrylic acid - Hydrochloric acid]			
Hydrofluoric acid	7664-39-3	Fluoric acid, Hydrogen fluoride	63.0
Hydrogen cyanide	74-90-8	Cyclon	800.0
Hydrogen sulfide	7783-06-4		1,000.0
* * *			
[See Prior Text in Maleic anhydride - Zinc (and compounds) [1][12]]			

Explanatory Notes:

[1]. – [12]. ...

Table 51.2 Louisiana Toxic Air Pollutant Ambient Air Standards				
Compound	CAS Number	Class	Ambient Air Standard [14]	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Acetaldehyde	75-07-0	II		45.50
Acetonitrile	75-05-8	II	810.00	
Acrolein	107-02-8	II	5.40	
* * *				
[See Prior Text in Acrylamide - Antimony (and compounds) [1]]				
Arsenic (and compounds) [1] [13]	7440-38-2	I		0.02
Asbestos (friable)	1332-21-4	I		†
Barium (and compounds) [1]	7440-39-3	II	11.90	
Benzene	71-43-2	I		12.00
Beryllium (and compounds) [1]	7440-41-7	I		0.04

**Table 51.2
Louisiana Toxic Air Pollutant Ambient Air Standards**

Compound	CAS Number	Class	Ambient Air Standard [14]	
			($\mu\text{g}/\text{m}^3$ *) (8 Hour Avg.)	($\mu\text{g}/\text{m}^3$ **) (Annual Avg.)
Biphenyl	92-52-4	II	23.80	
Bis (2-chloroethyl) ether	111-44-4	I		0.30
1,3-Butadiene	106-99-0	II		0.92
n-Butyl alcohol	71-36-3	III	3,620.00	
Cadmium (and compounds) [1]	7440-43-9	I		0.06
Carbon disulfide	75-15-0	II	71.40	
Carbon tetrachloride	56-23-5	II		6.67
Carbonyl sulfide	463-58-1	III	582.00	
Chlorinated dibenzo-p-dioxins [2]	3268-87-9	II		.003
Chlorinated dibenzo furans [3]	51207-31-9	II		.003
Chlorine	7782-50-5	III	35.7	
Chlorine dioxide	10049-04-4	II	6.67	
Chlorobenzene	108-90-7	II	1,100.00	
Chloroethane	75-00-3	II	6,290.00	
Chloroform	67-66-3	II		4.30
Chloromethane	74-87-3	II		55.56
Chloroprene	126-99-8	II	857.00	
Chromium VI (and compounds) [1] [13]	7440-47-3	I		0.01
Copper (and compounds) [1]	7440-50-8	II	23.80	
Cresol [4]	1319-77-3	III	238.00	
Cumene	98-82-8	III	5,860.00	
Diaminotoluene	25376-45-8	II	181.00	
1,2-Dibromoethane	106-93-4	I		0.45
Dibutyl phthalate	84-74-2	II	119.00	
1,4-Dichlorobenzene	106-46-7	II	1,430.00	
1,2-Dichloroethane	107-06-2	II		3.85
Dichloromethane	75-09-2	II		212.77
1,2-Dichloropropane	78-87-5	II	8,260.00	
1,3-Dichloropropylene	542-75-6	II	107.00	
2,4-Dinitrotoluene [5]	121-14-2	II	4.76	
2,6-Dinitrotoluene [5]	606-20-2	II	4.76	
1,4-Dioxane	123-91-1	II	2,140.00	
Epichlorohydrin	106-89-8	I		83.00
Ethyl acrylate	140-88-5	II	476.00	
Ethyl benzene	100-41-4	II	10,300.00	
Ethylene glycol	107-21-1	III	2,380.00	
Ethylene oxide	75-21-8	I		1.00

[See Prior Text in Formaldehyde - Hydrochloric acid]				
Hydrofluoric acid	7664-39-3	III	61.90	
Hydrogen cyanide	74-90-8	III	260.00	
Hydrogen sulfide	7783-06-4	III	330.00	
Maleic anhydride	108-31-6	III	23.80	
Manganese (and compounds) [1]	7439-96-5	II	4.76	
Mercury (and compounds) [1]	7439-97-6	II	1.19	

[See Prior Text in Methanol - Xylene (mixed isomers) [9]]				
Zinc (and compounds) [1] [10] [13]	7440-66-6	III	119.00	

Explanatory Notes:

* - [11]. ...

[12] Includes the following compounds: Naphthalene (CAS Number 91-20-3), Methyl-naphthalene (CAS Number 1321-94-4), 1-Methyl-naphthalene (CAS Number 90-12-0), 2-Methyl-naphthalene (CAS Number 91-57-6).

[13] Zinc chromates and zinc arsenates are Class I TAPs regulated as carcinogens under Chromium VI (and compounds) and arsenic (and compounds) TAP categories.

[14] The AAS for acetaldehyde, acetonitrile, biphenyl, carbon disulfide, chloroethane, cresol, 1,4-dichlorobenzene, 2,4-dinitrotoluene, 2,6-dinitrotoluene, ethylene glycol, manganese (and compounds) was revised effective January 1, 2002.

Table 51.3. ...

Explanatory Notes:

* For pollutants listed in Table 51.3 of this Section, minimum emission rates and ambient air standards have not been established. Certain requirements of this Subchapter do not apply to these pollutants. For example, the provisions of LAC 33:III.5109, MACT and Ambient Air Standard Requirements and Standard Operating Procedure requirements, do

not apply. Emissions of Table 51.3 pollutants shall not be counted toward a facility's total toxic air pollutant emissions in determining whether a stationary source is a major source for the purposes of this Subchapter. The provisions of LAC 33:III.5107.A, B, and C, Reporting Requirements and Availability of Information, do apply to emissions of Table 51.3 pollutants. Such emissions shall be reported on the Annual Emissions Reports provided for under LAC 33:III.5107.A.1 and 2, beginning with the report due July 1, 1993. To determine the applicability of other provisions to the pollutants listed in this table, refer to the text of this Subchapter.

[1]. - [4]. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1331 (December 1995), amended LR 22:278 (April 1996), LR 24:1277 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1237 (July 1999), LR

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0712#013

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference of 40 CFR 63,
(LAC 33:III.501, 3003, and 5122)(AQ290ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.501, 3003, and 5122 (Log #AQ290ft).

This Rule is identical to federal regulations found in 70 FR 55568-55581, September 22, 2005, and 40 CFR 63, Subpart DDDDD, which are applicable in Louisiana. For more information regarding the federal requirements, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule repeals the department's incorporation by reference of 40 CFR 63, Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (hereafter, the Boiler MACT) and the September 22, 2005, revisions to the definitions of *commercial and industrial solid waste incineration (CISWI) unit*, *commercial or industrial waste*, and *solid waste* found in 40 CFR 60.2265 and 60.2875 (hereafter, the CISWI Definitions Rule). The department incorporated by reference the provisions of the revisions to the definitions in 40 CFR 60.2265 and 60.2875 at LAC 33:III.3003, and the Boiler MACT at LAC 33:III.5122.A. On June 8, 2007, the U.S. Court of Appeals for the District of Columbia Circuit vacated the Boiler MACT and the CISWI Definitions Rule (*Natural Resources Defense Council v. EPA*, D.C. Cir., No. 04-1385). The Court made its ruling effective on July 30, 2007.

In sum, the Court concluded that EPA's definition of "commercial or industrial waste" was too narrow in scope, thereby improperly limiting the number of solid waste incineration units subject to Section 129 of the Clean Air Act. Thus, the standard to which a number of sources will ultimately be subject—whether it be the "re-promulgated" Boiler MACT, federal rules for commercial and industrial solid waste incineration units (i.e., 40 CFR 60, Subpart CCCC), or Louisiana's §111(d) plan implementing 40 CFR 60, Subpart DDDD (69 FR 9949-9954, March 3, 2004)—is ambiguous at best and not likely to be resolved in the near term. Prior to the court's ruling, the department incorporated requirements of the rules into air operating permits. In light of the ruling, the department is seeking to maintain consistency with the federal rules and to provide the public

with information regarding the status of existing permit conditions citing the vacated federal provisions. The basis and rationale for this Rule are to amend the regulations to be identical to federal rules in response to the Court ruling vacating the Boiler MACT and the CISWI Definitions Rule.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This Rule promulgates Emergency Rule AQ290E, published on page 1893 of the October 20, 2007, *Louisiana Register*.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.7. ...

8. Any term or condition in a permit that references 40 CFR Part 63, Subpart DDDDD shall be null and unenforceable, unless the condition was included in the permit in lieu of an alternative applicable, enforceable condition. Such terms or conditions shall be removed or modified, as appropriate, in the next modification or renewal of the permit.

C. - C.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. - B.9, table. ...

10. The definitions of *commercial and industrial solid waste incineration (CISWI) unit*, *commercial or industrial waste*, and *solid waste* do not include the revisions to the definitions in 40 CFR 60.2265 and 60.2875, promulgated by the EPA on September 22, 2005 (70 FR 55568-55581).

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229

(December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. - C.2. ...

3. 40 CFR Part 63, Subpart D, Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants; Subpart E, Approval of State Programs and Delegation of Federal Authorities; Subpart J, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production; and Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, are not included in this incorporation by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007).

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0712#015

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Notification Requirements and Reportable Quantity List
(LAC 33:I.3905, 3919, 3925, and 3931)(OS078)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary has amended the Office of the Secretary regulations, LAC 33:I.3905, 3919, 3925, and 3931 (Log #OS078).

This Rule modifies the table of reportable quantities (RQs) in LAC 33:I.3931 to retain RQs for the highly reactive volatile organic compounds (HRVOC) ethylene, propylene, and combinations of ethylene and propylene or "total" HRVOC. RQs are added for some toxic air pollutants (TAPs) and revised for other TAPs. The department has reviewed new information concerning the frequency and amounts of HRVOC unauthorized discharges and will retain the current RQs for ethylene, propylene, and combinations of ethylene and propylene. The RQs for the other HRVOCs will return to their previous values. The Rule will clarify LAC 33:I.3919 regarding the timing for notification of unauthorized discharges related to groundwater contamination, and provide for submittal of periodic update reports concerning unauthorized discharges in which an ongoing investigation is being conducted until the investigation is completed and the required information is submitted. Based on comments received, the rule will incorporate the unauthorized discharge reporting requirements currently in LAC 33:III.5107.B into LAC 33:I.Chapter 39, thereby streamlining reporting requirements and removing duplicative reporting language from the regulations. In order to complete this streamlining process, some TAP RQs were added to the table at LAC 33:I.3931, and some TAP RQs in the table were lowered. However, in response to comments received during the public comment period for this Rule, substantive changes were made to reverse this action and to make other clarifications in the regulations. The definition of groundwater is being modified to ensure consistency throughout the Environmental Quality regulations. The basis and rationale for this Rule are to update the RQs in the regulations and provide for submittal of periodic update reports concerning unauthorized discharges.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Groundwater—water located beneath the ground surface or below a surface water body in a saturated zone or stratum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 33:2627 (December 2007).

Subchapter C. Requirements for Prompt Notification
§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify SPOC within seven days.

B. Dischargers shall submit written notification in accordance with LAC 33:I.3925 or any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2076(D), 2183(I), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), repealed LR 19:1022 (August 1993), repromulgated and amended LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 33:2628 (December 2007).

Subchapter D. Notification Procedures
§3925. Written Notification Procedures

A. - A.2. ...

3. For information required by Subsection B of this Section that is not available at the time of submittal of the written notification report due to an ongoing investigation, updates of the status of the ongoing investigation of the unauthorized discharge shall be submitted every 60 days until the investigation has been completed and the results of the investigation have been submitted.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), LR 30:1669 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 33:2628 (December 2007).

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. - A.2. ...

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants. If a pollutant is listed with more than one reportable quantity, the lower-value reportable quantity shall be used.

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Acetaldehyde	Acetic aldehyde	75070	U001	700
Allyl chloride	3-Chloropropene	107051		1000/10 ⁶
Aniline	Aminobenzene	62533	U012	5000/1000 ⁶
Antimony*		7440360		5000/100 ⁶
Antimony compounds		20008		100
Barium*		7440393		100
Barium compounds		20020		100
n-Butyl alcohol	1-Butanol	71363	U031	5000/1000 ⁶
Carbonic dichloride	Phosgene	75445	P095	10/1 ⁶
Chlorinated dibenzo furans, all isomers				1
Chlorine dioxide	Chlorine oxide	10049044		1
Chromium ³ *		7440473		5000/100 ⁶
Chromium compounds		20064		100
Copper ³		7440508		5000/100 ⁶
Copper compounds		20086		100
Cumene	Isopropyl benzene	98828	U055	5000/1000 ⁶
Ethyl acrylate	2-Propenoic acid, ethyl ester	140885	U113	1000/10 ⁶
Ethylene	Ethene	74851		5000 [#] or 100 ⁺
Glycol ethers **				100
Hexane	Hexyl hydride	110543		5000/1000 ⁶
Hydrogen chloride	Hydrochloric acid	7647010		5000/1000 ⁶
Hydrogen fluoride	Hydrofluoric acid	7664393	U134	100/10 ⁶
Manganese*	Colloidal manganese	7439965		100
Manganese compounds				100
Methyl acrylate	2-Propenoic acid methyl ester	96333		10
Methyl ethyl ketone (MEK)	2-Butanone	78933	U159	5000/1000 ⁶
Methyl isobutyl ketone	4-Methyl-2-pentanone	108101	U161	5000/1000 ⁶
Methylmercaptan	Methanethiol	74931	U153	100/25 ⁶

Pollutant	Synonym	CAS No. ¹	RCRA ² Waste Number	Pounds
Methyl methacrylate	2-Methylacrylic acid methyl ester	80626	U162	1000/100 [®]
Methylene diphenyl diisocyanate	Methylene bisphenyl isocyanate	101688		1000
Nitric acid	Hydrogen nitrate	7697372		1000/100 [®]
Oil				1 barrel
Phthalic anhydride	1,3-Isobenzofurandione	85449	U190	5000/1000 [®]
Polynuclear aromatic hydrocarbons ***				1
Produced water				1 barrel
Propionaldehyde	Propionic aldehyde	123386		1000/100 [®]
Propylene	Propene	115071		100 [†]
Sulfur dioxide				500
Sweet pipeline gas (Methane/Ethane)				42000 (1,000,000 scf)
Vinyl acetate	Vinyl acetate monomer	108054		5000/100 [®]
Volatile organic compounds not otherwise listed ⁴				5000
Only those highly reactive volatile organic compounds listed below: ethylene and propylene ⁵				100 [†]
F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F003	100
Methyl isobutyl ketone		108101		5000/1000 [®]
n-Butyl alcohol		71363		5000/1000 [®]
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:			F005	100
Methyl ethyl ketone		78933	U159	5000/1000 [®]

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** This reportable quantity is applicable to the aggregate emissions of the following glycol ethers: ethylene glycol monomethyl ether (CAS Number 109864), ethylene glycol monomethyl ether acetate (CAS Number 110496), ethylene glycol monoethyl ether (CAS Number 110805), ethylene glycol monoethyl ether acetate (CAS Number 111159), diethylene glycol dimethyl ether (CAS Number 111966), and ethylene glycol dimethyl ether (CAS Number 110714). All other glycol ethers are subject to the federal RQ, if applicable, that is incorporated by reference in LAC 33:I.3931.A.

*** The emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111, and exempt compounds are listed in LAC 33:III.2117.

⁵ The emissions of these highly reactive VOCs shall be totaled to determine if an RQ has been exceeded.

[®] The first RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

[†] The RQ listed denotes the reportable quantity that will apply to unauthorized emissions based on total mass emitted into the atmosphere for facilities in the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

* RQ for the state except the following parishes: Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, St. Charles, St. James, St. John the Baptist, Pointe Coupee, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR

22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007).

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0712#016

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Periodic Monitoring
(LAC 33:III.507)(AQ289ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.507 (Log #AQ289ft).

This Rule is identical to federal regulations found in 40 CFR 70.6(a)(3)(i)(B), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule adds certain language from 40 CFR 70.6(a)(3) to LAC 33:III.507, such that it can be cited in Title V permits as necessary. The Part 70 Operating Permits Program at 40 CFR 70.6(a)(3), generally referred to as EPA's

"periodic monitoring rule," requires all Title V permits to include provisions for periodic monitoring where an applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring). Such monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.

40 CFR 70.6(a)(3) is referenced in the Louisiana air quality regulations at LAC 33:III.507.H.1. This regulation mirrors the more generic provision of the Part 70 Operating Permits Program at 40 CFR 70.6(c)(1), sometimes referred to as EPA's "umbrella monitoring rule," which states that all Part 70 permits shall contain, consistent with 40 CFR 70.6(a)(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to ensure compliance with the terms and conditions of the permit.

EPA's interpretation of 40 CFR 70.6(c)(1) (set forth at 71 FR 75422-75431, December 15, 2006) is that this provision does not establish an independent basis for requiring or authorizing review and enhancement of existing monitoring in Title V permits. Instead, the umbrella monitoring rule simply requires the permitting authority to include in Title V permits a number of elements (e.g., reporting, recordkeeping, compliance certifications) related to compliance; among these elements is the monitoring as specified in the periodic monitoring rule. Given EPA's position, it is better for the department to directly reference EPA's periodic monitoring rule, rather than EPA's umbrella monitoring rule. This Rule is also a revision to LDEQ's Part 70 Operating Permits Program. The basis and rationale for this rule are to add the language of 40 CFR 70.6(a)(3) to the state regulations, such that it can be cited in Title V permits as necessary.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - G.5. ...

H. Compliance Measures and Certifications of Compliance. Each permit issued to a Part 70 source shall include the following elements with regard to compliance:

1. compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit as required by 40 CFR 70.6(a)(3), including:

a. where an applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to 40 CFR 70.6(a)(3)(iii). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping

provisions may be sufficient to meet the requirements of this Subparagraph;

b. for any document required to be submitted under this Paragraph, a certification by a *responsible official* as defined in LAC 33:III.502 and required by LAC 33:III.517.B.1;

H.2. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007).

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0712#014

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Recycling Tax Credit (LAC 33:VII.10401, 10403,
10405, 10407, 10409, 10411, 10413, and 10415)(SW043)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.10401, 10403, 10405, 10407, 10409, 10411, 10413, 10415 (Log #SW043).

This Rule establishes the technical requirements to qualify for the recycling tax credit for new recycling manufacturing or process equipment and service contracts outlined in Act 319 of the 2005 Regular Session of the Louisiana Legislature. The Rule requires a person wishing to take advantage of the tax credit to submit an application to DEQ for review, and provides guidance on which equipment and/or service contracts will be considered for the tax credit. The regulations require DEQ to review the application to determine if the equipment and/or service contract meet the requirements for the credit. DEQ then certifies the application and forwards the recommendation to the Department of Revenue. The basis and rationale for this Rule are to implement Act 319 of the 2005 Legislative Session.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

§10401. Authority

A. These regulations are hereby established by the Department of Environmental Quality (DEQ) in consultation with the Louisiana Department of Revenue (LDR) as mandated by Act 319 of the 2005 Regular Session of the Louisiana Legislature. These regulations are to establish technical specifications and certification requirements for the qualification of new recycling manufacturing or process equipment and/or service contracts for the credit against income and corporate franchise taxes provided by R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

§10403. Applicability

A. These regulations apply to taxpayers who purchase *qualified new recycling manufacturing or process equipment* and/or *qualified service contracts*, as defined in LAC 33:VII.10405 and R.S. 47:6005, and who apply for tax credit pursuant to R.S. 47:6005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

§10405. Definitions

A. For the purpose of this Chapter the terms below shall have the meaning specified herein as follows.

Beneficial Use—the use of waste material for some profitable purpose (e.g., incorporating sludge into soil to amend the soil). Avoidance of processing or disposal cost alone does not constitute beneficial use.

Conventional Disposal—the disposal as waste in a cell at a landfill. It shall not include any application specifically approved by the department as a beneficial use (e.g., alternate daily cover).

Industrial Solid Waste—solid waste generated by a manufacturing, industrial, or mining process, or which is contaminated by solid waste generated by such a process. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products; byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; and transportation equipment. This term shall not include hazardous waste regulated under the Louisiana hazardous waste regulations or under federal law, or waste which is subject to regulation under the Office of Conservation's Statewide Order No. 29-B or by other agencies.

* * *

Process—a method or technique, including recycling, recovering, compacting (but not including compacting that occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport, reduced in volume, or amenable for recovery, storage, reshipment, or resale. The definition of *process* shall not include treatment of wastewaters to meet state or federal wastewater discharge permit limits. Neither shall the definition include activities of an industrial generator to simply separate wastes from the manufacturing process.

Qualified New Recycling Manufacturing or Process Equipment—new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both, and manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both. For purposes of this Chapter, *qualified new recycling manufacturing or process equipment* shall not include vehicles, structures, machinery, equipment, or devices used to store or incinerate waste material, or construction equipment or farm equipment used in the process.

Qualified Recycling Equipment—repealed.

Qualified Service Contract—any service contract utilized by a nonhazardous industrial waste generator or a nonhazardous industrial waste beneficial user to implement Department of Environmental Quality-approved beneficial use programs for nonhazardous industrial waste streams as defined under the department's solid waste rules and regulations so as to avoid conventional disposal of such waste in a landfill.

Recovered Material—*recovered materials* as defined in R.S. 30:2412 and which would otherwise be processed or disposed of as nonhazardous solid waste.

* * *

Solid Waste—any garbage, refuse, or sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. *Solid waste* shall not include solid or dissolved material in domestic sewage; solid or dissolved materials in irrigation-return flows; industrial discharges that are point sources subject to permits under R.S. 30:2075; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (68 Stat. 923 et seq.), as amended; or hazardous waste subject to permits under R.S. 30:2171 et seq.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), repromulgated LR 18:960 (September 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2631 (December 2007).

§10407. Technical Specifications for Qualified New Recycling Manufacturing or Process Equipment and/or Service Contracts

A. In order to qualify for certification as qualified new recycling manufacturing or process equipment and/or a qualified service contract, the equipment and/or service contract must utilize new apparatus used exclusively to process post-consumer waste material and/or involve the processing of post-consumer waste material in a Department of Environmental Quality-approved beneficial use program for nonhazardous industrial solid waste and meet the following requirements:

1. be new machinery or new apparatus used exclusively to process post-consumer waste material, recovered material, or both; or
2. be new manufacturing machinery used exclusively to produce finished products, the composition of which is at least 50 percent post-consumer waste material, recovered material, or both; and/or
3. be a service contract associated with the construction and/or operation of new recycling manufacturing or process equipment implementing a Department of Environmental Quality-approved beneficial use program for industrial solid waste; and/or
4. be new parts required to allow recycling manufacturing to continue for equipment that is a part of a previously-approved certification under these regulations; and
5. be used exclusively in the state of Louisiana.

B. The following categories of equipment, and any associated service contracts, will be excluded from certification as qualified new recycling manufacturing or process equipment and/or qualified service contracts:

1. a *vehicle*, as defined in LAC 33:VII.10405, or any service contract associated with the vehicle;
2. structures, machinery, equipment, or devices, or any service contract associated with the structures, machinery, equipment, or devices, used to store or incinerate waste materials; and
3. used equipment, or any service contract associated with the used equipment.

C. The DEQ shall determine the costs to obtain and construct the qualified equipment, as well as the reasonable amount of the associated qualified service contract, that may be allowed for the credit. When the equipment is built from components and assembled at the installation site or a site separate from the installation site, and subsequently transported and installed at the installation site, the costs of the components, the costs to assemble the components, and the costs to install the components shall be considered the allowed costs. In addition, any qualified service contract necessary to carry out the assembly, transportation, or installation of the qualified equipment shall be considered allowed costs.

D. The costs of materials, labor, and qualified service contracts associated with the project, used to construct a building or other structure necessary to support the equipment or to protect the equipment and operators from the elements while they operate the equipment shall be allowed costs, provided that the building or structure is used exclusively in connection with the recycling operations.

E. Under no circumstances shall any of the following be considered allowed costs:

1. financial charges;
2. the costs of acquiring land or rights in land, including any service contract associated with the costs of acquiring land or rights in land, and any costs incidental thereto, including recording fees; and
3. the costs to construct a building or structure, including any service contract associated with the construction of the building or structure, to store raw material or finished products.

F. The DEQ shall determine the costs to obtain and utilize a service contract by nonhazardous industrial waste generators or nonhazardous industrial waste beneficial users. Beneficial use programs for nonhazardous industrial waste streams shall be defined according to the DEQ's solid waste rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended LR 24:27 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2632 (December 2007).

§10409. Application Requirements

A. Application Form for Equipment and Qualified Service Contracts

1. In order to qualify for the tax credit provided for in this Chapter, the taxpayer shall apply for certification from the Secretary of the Department of Environmental Quality that the new recycling manufacturing or process equipment purchased, and any associated service contract, is *qualified new recycling manufacturing and process equipment* or a *qualified service contract* as defined in LAC 33:VII.10405 and the equipment or service contract will be used or rendered exclusively in the state of Louisiana.

2. In addition to information provided on the application form, the DEQ may require and the applicant shall provide cost estimates, engineering drawings, specifications sheets, and any other documents necessary to establish with sufficient specificity the equipment and/or associated service contract qualifying for the tax credit.

3. In addition to information provided on the application form, the DEQ may require and the applicant shall provide such documentation as may be necessary to establish with sufficient specificity that the post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste under applicable state and federal law and regulations.

4. In addition, the DEQ may request documentation, in the form of bid amounts or other documentation, that a qualified service contract is for a reasonable amount and that the qualified service contract complies with all existing State of Louisiana Code of Ethics provisions, or otherwise complies with all applicable state and federal law and regulations.

B. The applicant must report final costs of recycling equipment purchases and qualified service contracts to the LDR and the DEQ. Audits will be performed by the LDR and the DEQ as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:841 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2632 (December 2007).

§10411. Applicant Certification

A. Included with the application for certification shall be a statement acknowledging that the applicant shall use a good faith effort to utilize post-consumer waste material or recovered material, or has used the equipment or services contracted for to implement a Department of Environmental Quality-approved beneficial use program for a nonhazardous industrial waste stream, which was generated within the state of Louisiana or was destined to be land-filled within the state.

B. The applicant shall certify to the accuracy of the information contained in the application regarding the equipment or service contract description, the date of purchase, and the cost of the equipment or service contract. The certification shall also state that the equipment and/or service contract is used exclusively in the state of Louisiana and has not previously qualified for a credit pursuant to this Chapter either for the owner or for a previous owner. The certification shall specify the following:

1. the date of purchase of the qualified new recycling manufacturing or process equipment, a description of the equipment, and the cost;
2. the date of the qualified service contract, if any, a description of such contract, and its cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

§10413. Department of Environmental Quality Certification

A. Prior to certification, the Secretary of the Department of Environmental Quality shall determine that any post-consumer waste material or recovered material proposed to be recycled is a nonhazardous solid waste or nonhazardous industrial solid waste under applicable state and federal law and regulations and/or is being used for a qualified beneficial use approved by the DEQ.

B. The Secretary of the Department of Environmental Quality shall examine the application and, if he determines that the equipment and/or service contract described therein is qualified new recycling manufacturing or process equipment and/or a qualified service contract used or rendered exclusively in the state of Louisiana, shall certify that the equipment and/or service contract is eligible for credit against state income and corporation franchise taxes pursuant to R.S. 47:6005.

C. Upon certification, the Secretary of the Department of Environmental Quality shall submit a copy of the signed, certified application to the taxpayer and to the Secretary of the Louisiana Department of Revenue. The secretary shall also submit a copy of the certification to the Commissioner of Administration, who shall approve the certification prior to a credit being granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment

and/or a qualified service contract that may be allowable for all taxable periods is 20 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

Cost of equipment	\$1,000,000
	X .20
	\$ 200,000
Less other Louisiana credit on purchase	\$ 100,000
Maximum credit for all taxable periods	\$ 100,000

B. One-fifth (20 percent) of the maximum total credit related to a purchase of qualified recycling equipment and/or a qualified service contract is earned each taxable period in which the equipment or service contract continues to be in use exclusively in the state of Louisiana to a maximum of five periods. Example:

Maximum credit for all taxable periods	\$ 100,000
	X .20
Credit earned for this taxable period	\$ 20,000

C. The maximum credit that may be claimed for all purchases of qualified recycling equipment and/or qualified service contracts, including carryover of previously earned but unused credits, in any taxable period shall not exceed 50 percent of the tax that would be otherwise due. Example:

Tax otherwise due:	
Income tax	\$ 12,000
Franchise tax	\$ 18,000
Total	\$ 30,000
	X .50
Maximum credit to be claimed on return	\$ 15,000

D. ...

E. If the qualified recycling equipment is sold or exchanged before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of sale. If a qualified service contract is transferred by virtue of a sale of the qualified recycling equipment or otherwise before the entire credit is claimed, any unearned portion of the credit shall be canceled for all periods following the period of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007).

Herman Robinson, CPM
Executive Counsel

0712#017

RULE

Office of the Governor Board of Certified Public Accountants

Practice Privileges and Licensing
(LAC 46:XIX.1105, 1501, 1901, 1909, and 1911)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and of the Louisiana Accountancy Act, R.S. 37:74, the Board of Certified Public Accountants of Louisiana has amended LAC 46:XIX:1105, 1501, 1901, 1909, and 1911. The objective of this action is to facilitate recognition of practice privileges for qualified CPAs in other states who seek to practice and offer services in multiple states. Another objective is to align the rules with corresponding requirements or standards of other state boards of accountancy. No preamble has been prepared with respect to the revised Rules which appear below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XIX. Certified Public Accountants

Chapter 11. Issuance and Renewal of Certificate

§1105. Certificate Application, Annual Renewals, Inactive Registration, Reinstatement, Practice Privileges under Substantial Equivalency

A. - D.4.c. ...

E. Practice Privileges under Substantial Equivalency

1. An individual holding a valid active CPA license issued by another state board of accountancy, who satisfies the requirements of R.S. 37:94 and Paragraph E.4 of this Section regarding substantial equivalency, shall be granted the privilege to practice as a CPA in Louisiana without the need to obtain a Louisiana certificate provided that such individual is not domiciled and does not have a principal place of business in Louisiana.

2. An individual, under the provisions of this section, who offers or renders professional services or uses the CPA title, whether in person, by mail, telephone, electronic, or other means *practices in Louisiana*, shall be granted practice privileges without the necessity of giving notice to the board or paying a fee to the board.

3. An individual granted practice privileges and his firm are subject to the requirements of R.S. 37:94(A)(3). In the event the license upon which the practice privileges are based is no longer active or valid, the practice privileges shall expire and the individual must cease using the CPA title in Louisiana and must cease offering or rendering professional services in Louisiana individually and on behalf of his firm.

4. Determination of Substantial Equivalence

a. With respect to substantial equivalence under R.S. 37:94.A(1), the board shall have publicly available a listing of states which the board has verified to be in substantial equivalence with the original licensure requirements of the Act. Any individual holding an original valid CPA license issued by a substantially equivalent state is qualified for practice privileges.

b. With respect to substantial equivalence under R.S. 37:94.A(2), any individual, who does not currently hold an original valid CPA license issued by a state which the

board has verified to be in substantial equivalence with the original licensure requirements of the Act, is qualified for practice privileges if he holds a valid active CPA license issued by a state board of accountancy and has passed the Uniform CPA Examination (or IQEX examination if applicable), and he:

i. has 150 semester hours of college education and has at least one year of CPA supervised accounting related experience in the last four years; or

ii. has four years of experience outside of Louisiana as a practicing CPA (or chartered accountant if applicable) within the last 10 years.

5. An individual granted practice privileges may perform the following services for a client whose home office is in Louisiana only through a firm which has obtained a permit issued under R.S. 37:77 and §1501:

a. a financial statement audit or other engagement to be performed in accordance with Statements on Auditing Standards or Government Auditing Standards;

b. any examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements; or

c. any engagement to be performed in accordance with PCAOB auditing standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 9:208 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1974 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007).

Chapter 15. Firm Permits to Practice; Attest Experience; Peer Review

§1501. CPA Firm Permits; Attest Experience; Application, Renewal, Reinstatement; Internet Practice

A. Any firm which has or establishes an office or place of business in Louisiana which provides attest services or which uses the title "CPA," "CPAs," "CPA firm," "Certified Public Accountant," "firm of Certified Public Accountants," or similar such designations and firms described in Subsection B of this Section must obtain and hold a valid and current firm permit issued by the board under R.S. 37:77(A). The use of any of the above titles or designations anywhere on firm letterhead, business cards, electronic correspondence, advertisements or publications, promotional materials, or any other publicly disseminated medium by a firm not holding a valid and current firm permit is not allowed if it implies the existence of an entity that holds a current and valid firm permit issued by the board under the provisions of R.S. 37:77(A):

1. the board may require that such firm applying for issuance, renewal or reinstatement of a firm permit to provide any and all information and/or documentation that the board deems appropriate and necessary to ensure the firm's compliance with all provisions of the Act;

2. any such CPA firm organized as and/or represented as a professional accounting corporation is considered to be using the title "firm of certified public accountants" and

therefore must hold a firm permit, pursuant to R.S. 37:77(A);

3. "active individual participants" as referred to in R.S. 37:77(C)(2)(b) means natural persons, firms, associations, partnerships, corporations, or other business organizations or entities, in which all owners of such entities must provide personal services in the CPA firm or its affiliated entities in the nature of management, performance of services for clients, performance of services which assist the certificate holders within the firm in providing professional services, or similar activities; and

4. a person or entity which makes or holds a passive investment in a CPA firm or its affiliated entities for the purposes of receiving income from the firm or its affiliated entities shall not constitute "active individual participation" as referred to in R.S. 37:77(C)(2)(b);

5. a certificate holder, or an individual granted practice privileges under R.S. 37:94, who is responsible for supervising attest services, or who signs or authorizes someone to sign accountant's reports on behalf of the firm, shall meet the experience and competency requirements for a "practitioner in charge" as set forth in AICPA Quality Control Standards;

6. all firms holding a valid registration as a certified public accounting firm June 18, 1999 shall be deemed to have met the initial firm permit requirements.

B. A firm which does not have an office or a place of business in Louisiana that offers to perform or performs services described in §1105.E.5 of this Section for a client whose home office is in Louisiana must hold a permit issued under R.S. 37:77 and Subsection A of this Section.

C. A firm which does not have an office or a place of business in Louisiana that offers to perform or performs professional services other than those cited in Paragraph E.5 of this Section for a client whose home office is in Louisiana may perform such services and use the title "CPA" or "CPA firm" without a permit only if:

1. the firm satisfies the ownership qualifications described in R.S. 37:77(C) and is subject to quality or peer review under a state board of accountancy approved program or under the AICPA Peer Review Program and has completed such a quality or peer review within the last three years;

2. the firm performs such services only through individual licensees with practice privileges under R.S. 37:94 and §1105. E or holding a license issued under R.S. 37:77; and

3. the firm can lawfully perform such services in the state where such individual licensees have their principal place of business;

4. if the firm does not satisfy one or more of the requirements cited in Paragraphs 1, 2 and 3 above, the firm must apply for a permit for a board determination as to whether the firm is qualified to practice in Louisiana.

D. Firm Permits

1. Applications by firms for initial issuance and for renewal of permits pursuant to R.S. 37:77 shall be made on a form provided by the board. Applications will not be considered filed until the applicable fee, all requested information, and the required documentation prescribed in these rules are received.

2. A firm registered pursuant to R.S. 37:77 shall file with the board a written notification of any of the following

events concerning the practice of public accountancy within this state within 30 days after its occurrence:

a. change in the firm's designated licensee;

b. formation of a new firm;

c. addition of a new partner, member, manager or shareholder;

d. any change in the name of a firm;

e. termination of the firm;

f. change in the management of any office in this state;

g. establishment of a new office location or the closing or change of address of an office location in this state;

h. the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the Act or any rules or regulations adopted by the board.

3. In the event of any change in the legal form of a firm, such new firm shall within 30 days of the change file an application for an initial permit in accordance with board rules and pay the fee required by the rules.

4. Samples of original letterhead must also be included with permit and renewal applications. Names of licensed partners, shareholders, members, managers and employees, and names of non-licensee owners, may be shown on a firm's stationery letterhead. However, names of licensed partners, shareholders, members and managers shall be separated from those of licensed employees by an appropriate line. Licensees shall be clearly identified and the names of non-licensee owners shall be separated from the name of licensees by an appropriate line.

5. Any firm which falls out of compliance with the provisions of R.S. 37:77 due to changes in firm ownership or personnel after receiving, renewing, or reinstating a firm permit shall notify the board in writing within 30 days of the occurrence of changes which caused the firm to fall out of compliance with R.S. 37:77.

a. Such notification shall include an explanation as to how and why the firm is not in compliance and the date upon which the firm fell out of compliance with R.S. 37:77.

b. The firm shall also provide any additional information or documentation the board may request concerning the firm's noncompliance with R.S. 37:77.

6. Within 30 days of written notification to the board that the firm is not in compliance with R.S. 37:77, the firm shall notify the board in writing that the firm has taken corrective action to bring the firm back into compliance.

a. Such notification shall include a description of the corrective action taken, and the dates upon which the corrective action was taken.

b. The firm shall also provide any additional information or documentation the board may request concerning the corrective actions taken to ensure the firm's compliance with R.S. 37:77.

7. For good cause shown, the board may grant additional time for a firm to take corrective action to bring the firm into compliance with R.S. 37:77.

8. Any firm permit suspended or revoked for failure to bring the firm back into compliance within the time period

described above, or within the additional time granted by the board, may be reinstated by the board upon receipt of written notification from the firm that the firm has taken corrective action to bring the firm back into compliance. Such notification shall include a description of the corrective action taken, the dates upon which the corrective action was taken, and any additional information or documentation the board may request concerning the corrective actions taken.

9. The board may impose additional requirements at its discretion, including but not limited to monetary fees, on any firm as a condition for reinstatement of a firm permit suspended or revoked for failure to bring the firm into compliance with R.S. 37:77.

10. At its discretion, the board may also take action against the CPA certificate or practice privilege of the firm's designated licensee for failure to provide written notification to the board required in this Section.

E. Firm Permit Renewals

1. Firm Permit renewals shall be filed in accordance with certificate renewals, i.e., renewals are due by December 31, delinquent if not renewed prior to February 1; and, expired if not renewed prior to March 1.

2. Delinquent fees for firm permit renewals shall be \$15 per owner, partner, member or shareholder if not renewed prior to February 1; \$30 if not renewed prior to March 1.

F. An annual renewal fee to be set by the board, based on the total number of owners, partners, members and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per owner, partner, member or shareholder with a maximum of \$5,000 per firm if timely filed, shall be paid by each firm that files in accordance with the provisions of §1501.E-G.

G. Reinstatement of Firm Permits

1. To reinstate a firm permit which has been expired for a year or more due to non-renewal, the firm shall be required to file an initial application for a firm permit and pay the applicable application fee. The firm shall also be required to pay applicable delinquent fees.

2. For good cause shown, the board may waive in whole or in part the reinstatement fees provided for in this Section.

3. In addition to reinstatement fees, an additional fee may be assessed against those CPA firms whose firm permits expired or were cancelled pursuant to this Section three times within six years.

4. In addition to the above fees, an additional reinstatement fee may be assessed against those CPA firms which continued to practice as a CPA firm after the expiration or cancellation of the firm permit pursuant to this Section. Such fee shall be determined by the length of the period of time the firm has practiced without a permit times the annual renewal fee including additional for delinquency each year.

5. No firm permit shall be renewed or reinstated by the board if the firm applying for renewal or reinstatement has failed to remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the firm owes the board or has been ordered to pay to the board.

H. Internet Practice. A CPA firm offering or performing services via a web site shall provide on the web site the

firm's name, address, and the states in which the CPA firm holds a license or permit to practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 3:308 (July 1997), amended LR 6:9 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997), LR 26:1980 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 32:2249 (December 2006), LR 33:2634 (December 2007).

Chapter 19. Investigations; Hearings; Suspension, Revocations or Restrictions; Reinstatements

§1901. Charges in Writing; Investigative Files

A. Charges against holders of CPA certificates, practice privileges, and/or firm permits shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1987 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007).

§1909. Hearing

A. - U. ...

V. Any licensee whose certificate, practice privilege, or firm permit issued by the board is subsequently suspended or revoked may be required within 30 days to return such certificate, registration or firm permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997), LR 26:1988 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007).

§1911. Reinstatement of Licenses (After Revocation, Suspension, Refusal to Renew)

A. Upon receipt by the board of a written request for reissuance of a certificate, practice privilege, or firm permit which has been revoked by the board, or issuance of a new certificate, practice privilege, or firm permit under a new number to a person or firm whose certificate, practice privilege, or firm permit has been revoked, or for termination of a suspension of a certificate, practice privilege, or firm permit suspended by the board, the board shall specify the time period and the manner in which such application shall be considered, pursuant to R.S. 37:82.B. The application shall include any and all information the board deems appropriate.

B. The board may, at its sole discretion, impose appropriate terms and conditions for reinstatement of a certificate, practice privilege, registration or firm permit or modification of a suspension, revocation or probation.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 26:1989 (September 2000), amended by the Office of the Governor, Board of Certified Public Accountants, LR 33:2636 (December 2007).

Michael A. Henderson
Executive Director

0712#024

RULE

Office of the Governor Capital Area Ground Water Conservation Commission

Capital Area Ground Water Conservation
(LAC 56:V.Chapters 1-11)

Editor's Note: The Rules below have been codified and placed
in Title 56, Part V.

Title 56

PUBLIC WORKS

Part V. Capital Area Ground Water Conservation Commission

Chapter 1. Water Well Registration in the Capital Area Ground Water Conservation District

§101. Water Wells That Shall Be Registered

A. All wells which supply a public water system, regardless of yield, must be registered with the state.

B. All other water wells capable of producing more than 50,000 gallons per day must be registered. For wells in the district that are exempt from registration by the commission, refer to §105. Refer to §103 for procedures for registering water wells used in connection with petroleum activities.

C. Procedures for determining when a water well is considered registered and procedures for determining responsibility for registering water wells are given in §§107 and 111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2637 (December 2007).

§103. Registration of Water Wells Used in Connection With Petroleum Production

A. Water wells producing fresh water for water flood activities permitted by the Department of Conservation must be registered according to the rules, regulations, and procedures stated herein.

B. Water wells producing saline water in connection with petroleum production do not have to be registered. These wells are regulated by the Louisiana Department of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2637 (December 2007).

§105. Exemptions

A. As provided for by Section 3073(3), and Section 3076(D) of Act 678 (1974), the following wells are exempt from the rules, regulations, and procedures for the registration of water wells in the district:

1. wells less than 400 feet in depth;
2. wells serving less than six households;
3. wells used for bona fide agricultural or horticultural purposes; and
4. wells used for both domestic and agricultural purposes, but not capable of producing more than 50,000 gallons per day.

B. Although the cited wells in the district are exempt from the commission's rules and regulations for registration, they may not be exempt from the rules, regulations, and procedures for water well registration of other state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2637 (December 2007).

§107. Registration of Water Wells Completed on or After July 1, 1975

A. The rules, regulations, and procedures as stated herein shall be used for establishing responsibility for registering water wells in the Capital Area Ground Water Conservation District completed on or after July 1, 1975, for determining when such a well is considered registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2637 (December 2007).

§109. Responsibility for and Procedures for Registering Water Wells

A. The water well contractor who drilled and constructed the well shall register the well by submitting to the Louisiana Department of Public Works, a completed Water Well Registration Form (LDPW-GW-1) for wells that must be registered in accordance with §101 and completed on or after July 1, 1975. Copies of the registration form for wells in the district will be made available to the commission, after field check and verification.

B. The registration form must be sent to the Louisiana Department of Public Works no later than 30 calendar days after the well has been completed. The commission and the Louisiana Department of Public Works consider that the well is completed when the well is accepted by the well owner.

C. Water Well Registration Form LDPW-GW-1, which will be provided by the Commission or the Louisiana Department of Public Works shall be used to register water wells in the district completed on or after July 1, 1975.

D. When the registration form (LDPW-GW-1), which is submitted by the water well contractor, is assigned a local well number by the department or commission, the water well shall be considered registered. Upon request, the well owner and water well contractor will be informed of the fact of registration and of the assigned local well number.

E. Copies of all attachments to the registration form will be sent by the department to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2637 (December 2007).

§111. Registration of Water Wells Completed Prior to July 1, 1975

A. The rules, regulations, and procedures stated in this Section shall be used for establishing responsibility for registering a water well completed prior to July 1, 1975, the effective date of the rules, regulations, and procedures adopted by the Department of Public Works, and for determining when such a well is considered registered by the state. Because some of the water wells that have been completed have been inventoried, the procedures for registering wells completed prior to July 1, 1975, are dependent on whether or not the well has been inventoried and the records for the wells are available to the state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2638 (December 2007).

§113. Responsibility for and Procedures for Registering Inventoried Water Wells Whose Records are Available to the State

A. The commission shall obtain from available data a listing, by landowner or lessee, of wells with pertinent data. A copy of the list shall either be sent to the landowner or lessee for checking or shall be checked and verified by a representative of the department.

B. If the list is sent to the landowner or lessee for checking and updating, the landowner or lessee shall be responsible for updating and correcting the list, certifying the list as current, and returning the corrected and verified list to the commission within 30 days after receiving the list.

C. The list shall be updated by indicating the current status of each listed well, by adding wells not on the list, and by indicating the wells that have been abandoned.

D. When the list, as corrected and certified by the landowner or lessee is received by the commission or department, the active wells on the list provided by the commission or department shall be considered registered. Wells added to the list by the owner shall be inventoried and registered by a representative of the commission or department in accordance with the procedures in §115.

E. If in the opinion of the commission or department a visit or contact by a representative of the state is preferable and more convenient to the landowner or lessee than sending a list of wells, a field visit or contact shall be made by a representative of the state. This procedure will be used when the landowner or lessee is responsible for only a few wells. After the data is checked and the location verified, a local well number shall be assigned to the well. At that time the well shall be considered registered.

F. Upon request, the landowner or lessee will be sent an updated listing of registered wells, by the department or commission, for which he is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2638 (December 2007).

§115. Responsibility for and Procedures for Registering Water Wells Which Have Not Been Inventoried

A. The commission's or department's representative shall contact the landowner or lessee to obtain well data and to check and verify the location of wells that have not been inventoried and whose records are not on file with a governmental agency. The landowner or lessee shall make available any needed data and shall permit access to the well site.

B. After the commission or department assigns a local well number the well shall be considered registered. Upon request the landowner or lessee will be informed of the fact of registration and of the assigned local well number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2638 (December 2007).

§117. Registration of Reworked Wells

A. Registered wells that are reworked (e.g. development, replacing the screen) need not be registered a second time unless the screen is set in a shallower or deeper aquifer (sand). If the registered well, after reworking, obtains water from an aquifer different from that reported on the original Registration Form (LDPW-GW-1), another form shall be submitted by the contractor within 30 days after completion of work.

B. If an unregistered well is reworked, deepened, changed in any manner, or a screen(s) is set in a shallower or deeper aquifer, a registration form (LDPW-GW-1) shall be submitted to the department by the water well contractor within 30 days after the work is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2638 (December 2007).

§119. Test Holes

A. Registration of test holes is not required. If a hole is converted after July 1, 1975, to a production well which is capable of producing 50,000 gallons per day, or is used to supply a public water system, a registration form must be filed with the commission and/or department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2638 (December 2007).

§121. Observation Wells

A. Registration of wells used solely for observation purposes is not required. If converted after July 1, 1975, to a well capable of producing more than 50,000 gallons per day or used to supply a public water system, a registration form must be filed with the commission and/or department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2639 (December 2007).

§123. Use of Information

A. The registration of water wells is intended to complement and in no way void the requirements of the Louisiana Department of Public Works, Louisiana Division of Health, and the Louisiana Department of Conservation.

B. The information on the forms will be available to all persons upon request. The data will be coded and integrated with water data systems operated by other governmental agencies and research groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2639 (December 2007).

§125. Definitions

A. For the purpose of the rules and regulations stated herein the following definitions shall apply.

Abandoned Well—a well whose use has been permanently discontinued or which is in such a state of disrepair that it cannot be used to supply water.

Active Well—an operating augered, dug, driven, bored, or drilled well that is used to supply water.

Aquifer Test—pumping tests are made in water wells for either one of two purposes or for both objectives;

a. to obtain information about the performance and efficiency of the well being pumped; or

b. to provide data from which the hydraulic characteristics of the aquifer can be calculated.

The test made to determine hydraulic characteristics is usually referred to as *aquifer test*.

Bacteriological Analysis—this analysis, usually for drinking water, generally consists of determining total coliform.

Biological Analysis—biological analysis of ground water is made only when there is a possibility of contamination from a surface source and an examination for microorganisms is made.

Board—the Board of Commissioners of the Capital Area Ground Water Conservation District.

Chemical Analysis—usually a report of dissolved minerals in the water and the water's physical properties, such as temperature. The minimum chemical properties that are usually determined are hardness, specific conductance, hydrogen-ion concentration (pH), dissolved solids, chloride, bicarbonate, iron, fluoride and nitrate.

Commission—the Capital Area Ground Water Conservation Commission.

Contaminant—any physical, chemical, biological, or radiological substance or matter in water.

Contamination—any introduction into water of microorganisms, chemicals, wastes, or wastewater in a concentration that makes the water unfit for its intended use.

Department—the Louisiana Department of Public Works.

Detritus—unconsolidated sediment comprised of both inorganic and decaying organic material.

Director—the Director of Public Works of the State of Louisiana or his designated representative.

District—the Capital Area Ground Water Conservation District.

Drawdown—the difference, usually in feet, between the static (nonpumping) water level and the pumping level in a well for a stated period of pumping from the well.

Drill Cuttings—Samples of the material obtained during drilling which are the source of lithologic information needed for proper selection of screen openings. The principal objective of drilling test holes is to obtain samples.

Driller's Log—the driller's description of the geologic strata encountered, their thickness and depth.

Electrical Log—a record of the resistivities of the subsurface formations and the contained fluid and the spontaneous potentials generated in the borehole, both plotted in terms of depth below the land surface. Other similar logs made in boreholes are the induction logs. Other borehole geophysical logs that may be also available are the gamma ray, caliper and neutron. Usually only an induction or electrical log is available for new wells.

Inactive Well—a well which is not in operation but can be used, with a minimum of effort as an observation well or a supply well.

Lessee—see definition for *water well owner*.

Observation Well—a well used by the appropriate engineering or research group in studies of the water resources of an area.

Pollution—a condition created by harmful or objectionable material in water.

Potable Water—water whose bacteriological, physical, and chemical properties make it suitable for human consumption and other beneficial purposes.

Public Water System—a system for the provision to the public of piped water for human consumption, if such a system has at least 15 service connections or regularly serves at least 25 individuals.

Pumping Test—pumping tests are made in water wells for either one of two purposes or for both objectives:

a. to obtain information about the performance and efficiency of the well being pumped; or

b. to provide data from which the hydraulic characteristics of the aquifer can be calculated.

The test made to obtain information about the performance of the well is usually referred to as *pumping test*.

Pumping Water Level—the water level, usually expressed in feet, in a well that is being pumped, above or below a specific datum, usually land surface.

Registered Well—an inventoried well that has been assigned a local well number by the state and whose records are available.

Saline Water—water with a dissolved solids content of 1,000 milligrams per litre or more.

Seepage—the appearance and disappearance of water into the ground surface—a type of movement of water.

Specific Capacity—the rate of discharge of water from a well divided by the drawdown of water level within the well for a specified period of continuous pumping of the well. It is usually expressed as "gallons per minute per foot of drawdown after X hours of continuous pumping."

Standby Well—a well that is used in emergencies or occasionally as a replacement well for an active well.

Static Water Level—the water level usually expressed in feet, in a well that is not being pumped, above or below a specified datum, usually land surface.

State—State of Louisiana.

Test Hole—an augered, drilled, driven, or bored hole that is used for the collection of geologic, hydrologic, and water quality data.

Water Well Contractor—any person, organization, or corporation who engages for compensation in the drilling, boring, construction of a water well. Does not include anyone who drills, bores, cores, or constructs a water well on his own property for his own use.

Water Well Owner—an individual, corporation, association, partnership, institution, or governmental agency who is either the legal owner of the property on which the well is located or is holding a long term lease on the property (lessee).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2639 (December 2007).

Chapter 3. Plugging and Sealing of Abandoned Water Wells and Holes in the Capital Area Ground Water Conservation District

§301. Purpose

A. The rules, regulations, standards, and methods as stated herein for well and hole abandonment were prepared in response to this directive and were developed in coordination with other state agencies, which are also concerned with the wise use of the water resources of the state. The contents of these standards do not preempt but complement the Department of Public Works rules related to water wells, the Department of Conservation's rules and regulations related to oil, gas, and salt wells and the Division of Health's Sanitary Code requiring the protection of "freshwater sand". The Capital Area Ground Water Conservation Commission shall be responsible only for water wells in the Capital Area Ground Water Conservation District which is composed of the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2640 (December 2007).

§303. General Rules and Requirements

A. The rules, regulations, standards, and methods stated herein apply to water wells that are drilled, bored, dug, augered, or driven. They are designed to provide for the restoration, as nearly as possible, of those subsurface and surface conditions that existed prior to drilling, boring, digging, or augering activities and for the installing of a well, taking into account any changes that may have occurred as a result of "natural stresses." The purpose of these regulations is to prevent contamination of aquifers by surface waters and the interchange of water between aquifers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2640 (December 2007).

§305. Exemptions

A. The following wells, excavations, and holes are exempted from the provisions of rules, regulations, standards, and methods stated herein: seismic holes, cathodic-protection holes, saline water wells associated with secondary recovery operations, brine wells, oil and gas wells and holes, geothermal and geopressured holes, brine-injection wells, water disposal wells, holes, and excavations used in the development and/or exploration of mineral resources, including but not limited to, gravel, salt, and sulphur, excavations, and borings associated with the construction of buildings, roads, bridges, and soil boring activities.

B. Although the cited activities are not covered by Act 678 (1974), they are not exempted or excepted by state law. Therefore, persons, corporations, governmental agencies, etc., should take any and all action, and use all protective methods necessary to protect our water supply and to prevent contamination. The exclusion of these activities from Act 678 (1974) does not in any way remove or establish legal liability for health and safety hazards, contamination or pollution problems alleged to be caused by persons engaged in the cited activities in the first paragraph of this Section.

C.1. As provided for by Section 3073(3) of Act 6781 (1974) the following wells are exempt from the commission's rules, regulations, standards, and methods for the sealing and plugging of abandoned water wells in the district:

- a. wells less than 400 feet in depth;
- b. wells serving less than six households;
- c. wells used for bona fide agricultural or horticultural purposes; and
- d. wells used for both domestic and agricultural purposes but not capable of producing more than 50,000 gallons per day.

2. Although the cited wells in the district are exempt from the commission's rules and regulations, they are not exempt from the rules and regulations of other state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2640 (December 2007).

§307. Effective Date

A. All water wells and holes abandoned on and after October 1, 1975, the effective date of the rules, regulations, standards and methods stated herein, shall be sealed in accordance with the procedure and methods stated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2640 (December 2007).

§309. Status of Wells Abandoned Prior to Effective Date

A. If production operations have ceased, or a well is in state of disrepair prior to the effective date of procedures

stated herein, and the owner has not and does not intend to place the well in the inactive status, the well shall be considered abandoned. The responsible party shall have six months from the effective date of these standards to return the well to active status or inactive status. After that time the abandoned well shall be plugged or sealed as provided for in the standards and methods stated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§311. Filing of Water Well Abandonment and Plugging Form (LDPW-GW-2)

A. The contractor who plugs an abandoned well or hole after October 1, 1975, shall complete Louisiana Department of Public Works Water Well Abandonment and Plugging Form (LDPW-GW-2) within 30 days after the completion of the work and submit the form (LDPW-GW-2) to the Louisiana Department of Public Works, who will record and transmit a copy to the commission. Copies of Form LDPW-GW-2 may be obtained from the commission or the Louisiana Department of Public Works. The commission considers the work completed when the work is accepted by the responsible party. Acceptance by the responsible party does not imply in any way acceptance and approval by the State of Louisiana. The commission, after inspection of the site and records (refer to §315), can cause the responsible party and/or contractor to do that additional work necessary to properly plug and seal a hole or well in accordance with the methods and standards stated herein. The expense for the additional work shall be borne by the responsible party.

B. The Louisiana Health and Human Resources Administration may also require additional information for wells used to supply public water systems. Abandoned drilled water wells and holes plugged and sealed prior to the effective date of the rules, regulations, standards, and methods can be reported to the commission, using Form LDPW-GW-2. For wells or holes abandoned and plugged and sealed, prior to the effective date, the landowner or lessee may be required to describe or provide information on the methods used to plug and seal the abandoned wells and holes. The location of abandoned wells and holes and those wells and holes plugged prior to October 1, 1975, should be known by the landowner or lessee so that the site may be readily inspected by a representative of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§313. Adequacy of Plugging an Abandoned Water Well or Hole

A. To assure that an abandoned water well or hole is plugged and sealed properly, and that there has been no "jamming" or "bridging" of the material, verification calculations and measurements should be made by the contractor to determine whether the volume of the material placed in the well or hole at least equals the volume of the casing or hole plugged and/or filled. When bridge plugs are

set, sufficient time shall be allowed for the material to set. After that time the location of the plugging shall be verified by "tagging", measuring, or sounding. Any measurement and calculations, the results of which should be included on the Abandonment and Plugging Form (LDPW-GW-2), shall also be made available upon request by the Capital Area Ground Water Conservation Commission and/or the Department of Public Works. The Board of Commissioners shall be responsible for determining whether a well or hole is satisfactorily plugged or sealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§315. Inspection

A. The Board of Commissioners may order at any time the site of an abandoned water well or hole inspected, to determine whether the work has been satisfactorily completed in accordance with the standards and methods stated herein, and as stated on the Water Well Abandonment and Plugging Form (LDPW-GW-2). The landowner or lessee shall make all records available to the representatives of the state and commission, and allow representatives to enter the property and visit site(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§317. Contractor

A. In addition to the responsibility for submitting Form LDPW-GW-2 (§311) for wells or holes plugged and sealed after October 1, 1975, it shall be the responsibility of each water well contractor to inform a landowner, lessee, or person having a well or hole drilled or altered, that the well or hole drilled shall be plugged if abandoned, in accordance with standards stated herein. The water well contractor shall also inform the owner of the necessity of plugging and sealing all other wells that have been previously abandoned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§319. Availability of Well Data

A. The drilling and construction records of a water well, if not in the owner's file, may be obtained from the water well contractor who installed the well and/or from one of the following governmental agencies.

Louisiana Department of Public Works
Post Office Box 44155, Capital Station
Baton Rouge, LA 70804
or
U.S. Geological Survey, WRD
Post Office Box 66492
Baton Rouge, LA 70806

B. Reports and/or information on hydrology, geology, the occurrence of saline water bearing and fresh water

bearing sands, and quality of water, may also be obtained from the above named governmental agencies and/or from:

Louisiana Department of Conservation
Post Office Box 44275
Baton Rouge, LA 70804

or
Louisiana Geological Survey
Post Office Box 66492
Baton Rouge, LA 70803

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2641 (December 2007).

§321. Regulations and Standards for Plugging and Sealing a Well or Hole and for Determining Responsibility

A. Following are regulations and standards for determining the status of a dug, drilled, bored, augered, or driven water well or hole and for determining the party responsible for properly plugging an abandoned well or hole.

B. Unless otherwise specified in the regulations and standards stated herein, the landowner or lessee shall be responsible for plugging and sealing an abandoned water well or hole. The individual or group responsible for plugging an abandoned water well or hole shall be known in the rules, regulations, standards, and methods as the responsible party. The responsible party shall take the necessary action to insure that an abandoned hole or well is plugged properly by a contractor qualified and experienced in plugging and sealing abandoned wells and holes, and in accordance with the methods and standards in §509.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2642 (December 2007).

§323. Active Well

A. An active well is an operating water well or a standby well that can be used with little effort and at any time, to supply water. When an oil or gas well has been converted to a fresh water well in accordance with the provisions of Section XIXG, Louisiana Department of Conservation's Amendment (3/1/74) to statewide Order 29-B, the abandonment of the water well or hole is then regulated by the rules and regulations stated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2642 (December 2007).

§325. Abandoned Well

A. Unless the landowner or lessee declares a well to be abandoned, the well is considered abandoned by the state of Louisiana when production operations have ceased for a period of one year or more and the well is in such a state of disrepair that the well cannot be placed in the active classification and there is no intent to use the well for

observation purposes. For wells used for observation purposes, or those temporarily out of use. An abandoned water well shall not be used for disposal of any waste or any other purpose.

B. The landowner or the lessee of the land shall be responsible for plugging and sealing an abandoned water well within 90 days after abandonment, or after the well has been declared abandoned by a local or state agency in accordance with the regulations and standards stated herein. For the responsibility of plugging and sealing abandoned observation wells refer to §329.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2642 (December 2007).

§327. Inactive Well

A. A well considered inactive is one that is not presently operating but is capable of being pumped with a minimum of effort or one that is used as an observation well. The owner must give evidence of his intentions for continued use. As evidence of his intentions, the owner shall be responsible for properly maintaining the well in such a way that:

1. the well and the annular space between the hole and casing shall have no defects that will permit the seepage of water from outside the well;
2. the well is clearly marked and is not a safety hazard;
3. the well is covered or capped in such a manner as to prevent easy entry by other than the owner;
4. the area surrounding the well is kept clear of waste and debris;
5. if the pump has been removed for repair or replacement, the well shall be adequately covered to prevent the entrance of any contaminant or pollutant;
6. the well is not used for the disposal or injection of trash, garbage, sewage, waste water, and/or storm runoff.

B. Unless a well is used for observation purposes, a well shall not remain in the inactive status for more than one year. After that time, it will be considered abandoned. Upon written request by the responsible party, the Louisiana Department of Public Works or the commission may permit, in writing, a well to remain in the inactive status for a specified period of time but not in excess of one additional year. The responsible party must satisfy the commission or department of his intent to use the well for observation purposes and/or return the well to the active well status within the specified time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2642 (December 2007).

§329. Observation Well

A. An inactive well can be used as an observation well by the landowner or lessee, or with the landowner's permission by governmental agencies, appropriate

engineering or research organizations engaged in studies of the water resources of the area. Observation wells shall be covered with an appropriate cap or cover to prevent use or entry except by personnel of the landowner or lessee, or the agency or organization making the observations. It shall be the responsibility of the owner, organization, or agency to prevent entry of any foreign materials or water into observation wells and to keep the surrounding area clear of waste, water, and debris.

B. A well shall not be used for any injection or recharge studies until a permit and permission are obtained in accordance with existing codes, orders, rules, and regulations of the Department of Conservation and/or the Louisiana Health and Human Resources Administration.

C. When a well, which was formerly an active well is no longer needed for observation purposes and the landowner or lessee of the land does not intend to use the well to supply water, the well shall be considered abandoned. The well then shall be sealed and plugged in accordance with these standards within 90 days after the initial date of abandonment. The responsibility for properly sealing and plugging an observation well, which formerly was an active well, shall be the landowner's or lessee's responsibility unless the agreement with the agency or organization to use the well for observation purposes clearly delegates the responsibility to the agency or organization.

D. Wells constructed solely for observation purposes by a landowner or lessee, a governmental agency, engineering or research organization, shall be converted to either active well status or abandoned well status when no longer needed for observation purposes. It shall be the responsibility of the landowner or lessee, agency, or organization who installed the well to plug and seal the well in accordance with these standards and methods stated within 90 days after the initial date of abandonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2643 (December 2007).

§331. Abandoned Hole

A. A pilot hole driven, drilled, augered, or bored with the intent to install casing and obtain water shall be considered an abandoned hole when the hole is not cased and a well is not developed or used for water supply or observation purposes within 30 days after drilling operations have been completed. Unless the owner has a prior agreement with the water well contractor that states otherwise, it shall be the water well contractor's responsibility to plug and seal such an abandoned hole within 90 days after work is terminated or after the hole is considered abandoned.

B. An exploratory test hole drilled or excavated solely for the purpose of collecting geologic, hydrologic, and water quality data shall be considered an abandoned hole within 30 days after the completion of all testing operations. The agency or organization responsible for the exploratory work is responsible for plugging and sealing the hole unless the landowner or lessee of the land has agreed in writing to retain responsibility for plugging and restoration.

C. When the drilling of a hole is temporarily suspended and the rig moved away from the drilling site, the hole shall be considered an abandoned hole unless drilling operations

are resumed within 90 days of the initial date of suspension of drilling operations. During the shut down period, a mud column of sufficient weight and height shall be maintained in the hole at all times to prevent seepage of water from or into the aquifers, or the interaquifer movement of water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2643 (December 2007).

§333. Failure of Responsible Party to Plug and Seal an Abandoned Water Well or Hole

A. When the responsible party fails to comply within the time allowed for the plugging and sealing of an abandoned hole or well in accordance with the rules and regulations stated herein, the police jury of the parish where the hole or well is located, after being so appraised, may request the commission to require the responsible party to plug and seal the hole or well within 30 days after receipt of the order from the Chairman, Capital Area Ground Water Conservation Commission.

B. Failure to comply with an order of the commission may result in a civil penalty of not more than \$1,000 a day for each day of violation and each act of violation in accordance with the provisions of Act 678 (1974) Section 3083.

C. If the responsible party fails to comply within 30 days, the police jury of the parish where the well is located may petition the Louisiana Department of Public Works to plug the well or hole. The responsible party shall be required to reimburse the state the expense incurred for plugging the water well or hole or be considered in violation of Act 535 (1972), Section 7, which permits a civil penalty of not more than \$1,000 a day for each day of violation and for each act of violation.

D. The landowner or lessee of the land at the time of sealing and plugging the hole or well, shall be held liable for payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2643 (December 2007).

Chapter 5. Regulations and Standards for Plugging and Sealing Abandoned Drilled Water Wells and Holes

§501. General

A. The plugging (or sealing) and filling of abandoned drilled water wells or holes shall be done by a contractor with experience in and knowledge of plugging and sealing procedures and the requirements of the rules, regulations, standards, and methods stated herein. The work shall be done in such a manner to prevent the interchange of water between aquifers, to prevent the entry of surface seepage by movement into the annular space and/or the well, and to remove all health and safety hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2643 (December 2007).

§503. Preliminary Work

A. Before the water well or hole is plugged and filled, the responsible party and contractor should obtain and study drilling and construction records. An investigation of the well or hole shall be made to determine the well or hole's condition and whether any obstructions will interfere with plugging or drilling the well or hole properly. Any obstructions shall be removed, if possible, by an approved method and by a qualified contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§505. Temporary Cover

A. When the work of plugging or sealing and filling an abandoned water well or hole is temporarily suspended, such as overnight or while awaiting material, the well or hole shall be covered and the immediate area conspicuously marked to protect and warn the public. The cover shall be sufficiently strong and anchored to prevent easy or unintentional entry. It shall be sealed well enough to prevent the seepage of water and the entry of any foreign material into the well or hole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§507. Plugging and Fill Materials

A. Requirements or criteria for plugging or sealing material and fill material to be used in accordance with these standards are as follows.

1. Plugging or Sealing Materials

a. It is recognized that no material is completely impervious, however, experience and test show that neat cement or cement slurry has a low enough permeability to be preferred for use when plugging and/or sealing is required. Neat cement or slurry is a mixture consisting of one bag of cement to five to ten gallons of water. Under certain conditions, other materials may be added to accelerate or retard the time of setting and to provide extra bulk. If a gel or bentonite is used, the quantity added should generally vary between one and four percent. Cement grout or concrete grout may be used in place of neat cement or cement slurry if the change is approved by the Louisiana Department of Public Works or the commission. Following are definitions of cement grout and concrete grout.

Cement Grout—a mixture consisting of not more than two parts of sand to one bag of cement (94 lbs.) and five to ten gallons of water.

Concrete Grout—a mixture consisting of cement, sand and gravel, and water in the proportion of one bag of cement (94 lbs.) to an equal volume of dry sand and gravel, and five to ten gallons of water.

b. Unless specified otherwise, plugging material shall be placed in one continuous operation by the circulation or pump method. The grout or slurry shall not be poured or dropped through the water.

2. Fill Materials. The following materials of low permeability (less than .001 millidarcies) are suitable for use as a filler when permitted by these standards: silt, sand and

clay mixture, native soil, mud-laden fluid weighing not less than 9 pounds per gallon, a well-proportioned mixture of these materials or with those materials mentioned in Paragraph 1-1.b above. Fill material shall be free of foreign and organic additive material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§509. Methods and Standards for Plugging Abandoned Drilled Water Well and Hole

A. The standards and methods discussed herein are intended to:

1. prevent seepage from the surface into fresh water aquifers;
2. prevent the movement of fluids from one aquifer to another; and
3. remove all health and safety hazards. Because of variable hydrologic conditions, differences in well construction, depth and size, and the irregular occurrence of saline water sands, the contents of these standards and methods cannot cover every possible situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§511. Exceptions

A. Requests to vary from methods and standards stated herein or information on the proper methods to seal and plug a hole or well are anticipated. Such requests for variance and/or clarification on methods to be used for wells in the district should be addressed to:

Capital Area Ground Water
Conservation Commission
Post Office Box 64526
Baton Rouge, LA 70806
Telephone: (504) 924-7420

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§513. Plugging and Sealing

A. The well or hold shall be filled or plugged upward from the bottom of the hole or well with neat cement or fill material, preferably in one continuous operation. Fill and/or plugging material shall not be poured into the hole or well. The commission may require under certain conditions, that the casing be perforated and cement forced under pressure into the surrounding formation to prevent movement of water in the annular space from one aquifer to another. Where the top of the casing is cut off below ground surface the excavation above the top of the casing shall be filled, after the surface plug is set, with enough soil or clay to compensate for compaction. All plugs shall be placed by the circulation or pump down method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2644 (December 2007).

§515. Surface Plug

A. A surface plug is a 30-foot or more in length cement plug that is placed in the upper 30 feet of the well casing. The plugging material shall be allowed to spill over the top of the casing and into the annular space to a depth of about 10 feet completely sealing the annular space between the hole and casing. To assure no movement of water into the annular space the ground slab, if any, shall be removed before plugging and sealing operations begin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§517. Bridge Plug

A. As used in the methods and standards stated herein the term, bridge plug refers to a cement plug not less than 50 feet in length that is either set at the bottom of the hole or well or at any depth interval in the hole or well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§519. Methods of Plugging a Drilled Water Well

A. The following standards and methods shall be used under the stated conditions to plug and seal an abandoned drill water well. Although the conditions discussed include nearly all possible conditions, instances will occur that are not covered in the standards and methods. As specified in §511, the commission shall be contacted for decisions on variance and changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§521. Wells Less Than 50 Feet in Depth

A. A well less than 50 feet deep shall be plugged completely with neat cement or fill material in sufficient amount to plug the hole and seal the annular space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§523. Wells Greater Than 50 Feet in Depth and Where One or More Fresh Water Aquifer Is Penetrated

A. The entire well shall be filled from the bottom up to the top of the casing with neat cement; or

B. fill material shall be placed in the screen or in the open hole opposite the producing aquifer. A bridge plug of not less than 50 feet in length shall be set above the top of the screen. The remainder of the casing below the upper 30 feet shall be filled with fill material, above which the surface plug will be set. In addition, a bridge plug of not less than 50 feet shall be set and centered at the depth(s) where the size of the casing is reduced and the casing of different diameters are joined by a seal or reducer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§525. Wells Where One or More Saline Water Aquifers Have Been Penetrated

A. Because of the need to provide assurance that fresh water aquifers will not be contaminated, the entire well including casing and screen shall be plugged and sealed with neat cement or cement slurry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§527. A Well From Which Some of the Casing Has Been Removed

A. If the casing remaining is in the upper part of the hole, the well shall be sounded to determine the amount, if any, of "cave in." That part of the hole filled with "cave in" material shall be reamed or drilled out to the original depth of the well shall be plugged and sealed with neat cement or cement slurry to a height of not less than 50 above the bottom of the casing. The casing between top of this bridge plug and a depth of 30 feet below the top of the casing shall be filled with fill material if no saline water aquifers were penetrated. A 30-foot surface plug shall be set in the upper 30 feet of the casing. If saline water aquifers were penetrated, the casing and open hole shall be completely filled from bottom up to the top of the casing with neat cement.

B. If the casing (including the screen) remaining is in the lower part of the well, the well and hole shall be completely filled with neat cement from the bottom up to or near the ground surface.

C. If all the casing and screen is removed, the hole for the entire original depth of the well shall be filled with plugging material as specified in §533 related to abandoned holes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§529. Gravel Packed Well

A. A gravel packed well will be plugged in accordance with §§523 and 525.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§531. Well Where More Than One Aquifer is Screened

A. To provide assurance that the movement of water is not possible, a bridge plug shall be set in each screen. With the exception of the bottom screen, the plug shall extend 50 feet above and below each screen. The bridge plug in the bottom screen shall extend 50 feet above the top of the screen.

1. The casing between each bridge plug may be filled with fill material. Surface plug shall be set in the upper 30 feet of casing; or

2. the entire well shall be filled with neat cement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2645 (December 2007).

§533. The Plugging of an Abandoned Drilled Hole

A. An abandoned hole shall be plugged from the bottom up to ground surface with neat cement (cement slurry).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2646 (December 2007).

§535. Definitions

Abandoned Well—a well whose use has been permanently discontinued or which is in such a state of disrepair that it cannot be used to supply water or for observation purposes.

Active Well—an operating augered, dug, driven, bored, or drilled well that is used to supply water.

Aquifer (Ground Water-Reservoir)—a formation group of formations, or a part of a formation that contains sufficient saturated material to yield significant quantities of water to wells.

Board—the Board of Commissioners of the Capital Area Ground Water Conservation District.

Bridge Plug—a cement plug of not less than 50 feet in length set at the bottom of the hole or well or at any depth in the hole or well.

Casing—a tubular retaining structure, generally metal, which is installed in a drilled, bored, driven, or augered hole to maintain the well opening.

Cement Grout—a mixture consisting of not more than two parts of sand to one bag of cement (94 lbs.) and 5 to 10 gallons of water.

Commission—the Capital Area Ground Water Conservation Commission.

Commissioner—the elected board of Commissioners of the Capital Area Ground Water Conservation District.

Concrete Grout—a mixture consisting of cement, sand, gravel and water in the proportion of one bag of cement (94 lbs.) to an equal volume of dry sand and gravel and five to ten gallons of water.

Cement Slurry—see definition for *neat cement*.

Contaminant—any physical, chemical, biological, or radiological substance or matter in water.

Contamination—any introduction into water from outside sources of microorganisms, chemicals, wastes, or wastewater in a concentration that makes the water unfit for its intended use.

Department—the Louisiana Department of Public Works.

Director—the Director of Public Works of the State of Louisiana or his designated representative.

District—Capital Area Ground Water Conservation District.

Drill Cuttings—samples of the material obtained during drilling and the source of lithologic information needed for proper selection of screen openings. The principal objective of drilling test holes is to obtain samples.

Geopressed Aquifers—a term used for an aquifer, especially in the Gulf Coast Area, in which the fluid pressure exceeds the normal hydrostatic pressure of 0.465 pounds per square inch per foot of depth.

Geothermal—pertains to the internal heat of the earth.

Ground Water—water suitable for any beneficial purpose percolating below the earth's surface.

Gravel Packed Well—an underreamed well in which artificially selected gravel or coarse material is hydraulically placed in the area immediately surrounding the screen or slotted pipe used as a screen, to increase the effective diameter at the well.

Health Hazard—any condition that may create a danger to public health and well being.

Inactive Well—a well which is not in operation but can be used, with a minimum of effort as an observation well or a supply well.

Lessee—see definition for *water well owner*.

Neat Cement (Cement Slurry)—a mixture consisting of one bag of cement to five to ten gallons of water.

Observation Well—a well used by the owner, an appropriate engineering or research group in studies of the water resources of an area.

Person—any natural person, corporation, association, partnership, receiver, tutor, curator, executor, administrator, fiduciary, or representative of any kind.

Pilot Hole—a hole drilled or augered with the intent to install casing and supply water.

Pollution—a condition created by harmful or objectionable material in water.

Potable Water—water whose bacteriological, physical, and chemical properties make it suitable for human consumption.

Public Water System—a system for the provisions to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals.

Registered Well—an inventoried well that has been assigned a local well number by the state and whose records are available.

Saline Water—water with a dissolved solids content of 1,000 milligrams per litre or more.

Screen—a structural tubular retainer, usually metal, used to support the hole in unconsolidated material with openings in the form of slots, whose openings are selected on the basis of adopted standards and allows sand free water to flow freely into the well in ample quantities and with a minimum loss of head. In agricultural wells and in other wells from which the pumping of sand creates little or no problems slotted pipe is used.

Seepage—the appearance and disappearance of water into the ground surface—a type of water movement.

Standby Well—a well that is used in emergencies or occasionally as a replacement well for a supply well.

Surface Plug—a cement plug of not less than 30 feet in length, in wells or holes deeper than 30 feet, and set at or below the top of the casing in the well.

Water Well Owner—individual, corporation, association, partnership, institution, or governmental agency who is either the legal owner of the property on which the well is located or is holding a long term lease on the property (lessee).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:386 (September 1975), effective October 1, 1975, repromulgated LR 33:2646 (December 2007).

Chapter 7. Rules and Regulations for Metering and/or Recording the Yield of Water Wells

§701. Authority

A. The rules and regulations contained herein were prepared in accordance with the provisions of R.S. 38:3076A(8) that states "...to require well owners who are users or well owners providing water to other users, at their own expense, to meter wells to permit accurate determination of rates of use. Metering may be required on a continuous or periodic basis ...".

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

§703. Purpose

A. The purpose of these regulations is to implement the above stated authorization for new wells that are drilled and installed after the effective date of these regulations. The regulations apply to wells that are not excluded herein and not otherwise excluded by R.S. 38:3071-38:3084, and are located in the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, and West Feliciana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

§705. Exclusions

A. The following water wells are excluded from the rules and regulations stated herein.

1. Wells with a total depth of less than four hundred feet or wells in the Mississippi River alluvial aquifer; or wells from which the production is used exclusively for bona fide agricultural or horticultural purposes; or for domestic use of persons resident upon the same premises and capable of producing not more than fifty thousand gallons per day in the aggregate; geopressure and geothermal wells, and wells producing water from formations producing oil or gas or both for commercial purposes, or wells producing salt water used for pressure maintenance; wells used in secondary recovery operations or other operations for the production of oil or gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

§707. Measuring Well Yield

A.1. The well owner shall be required to:

a. install a metering device that records and "totals" the yield of the well; or

b. measure well yield or rate under normal pressure to permit the calculation of the "total" yield of the well for a given period of time; or

c. design and construct into the discharge line of water well a bypass line that can be used to periodically measure the flow of the well as the well discharges to the atmosphere, using a measuring device such as a portable or permanently installed orifice plate and manometer.

2. If method b or c is used, an hour meter or exact records shall be used and/or maintained to record the number of hours the well is pumped for a stated period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

§709. Records

A. The well owner shall be required to keep records of well yield and shall, on request, furnish data concerning such records to the representatives of the Capital Area Groundwater Conservation Commission [R.S. 38:3076A(8)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

§711. Variance

A. Requests to vary from the rules and regulations stated herein must be sent in writing to the Capital Area Groundwater Conservation Commission, whose address is:

Capital Area Ground Water Conservation Commission
Post Office Box 64526
Baton Rouge, LA 70806
Telephone: (504) 924-7420

The request must show that compliance is impractical and must outline an alternative method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), repromulgated LR 33:2647 (December 2007).

Chapter 9. Rules and Regulations Requiring the Submission of Plans for New Water Wells in the Capital Area Ground Water Conservation District

§901. Purpose

A. The rules and regulations as stated herein were prepared in response to this authorization for the purpose of obtaining information that will be useful in advising users of any potential problems and of the location of nearby wells in the same aquifer, and to answer queries regarding the effects of pumping or changes in pumping rates.

B. This requirement for submission of plans shall not be construed in any way as a permit or as approval or disapproval by the commission of the proposed wells.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), repromulgated LR 33:2647 (December 2007).

§903. Rules and Regulations

A. Users shall submit to the commission's office, their plans to install wells that will produce 50,000 gallons per day or more. The plans shall include, at the minimum, the following information for each well: the depth of the well,

the proposed screen setting(s), aquifer(s) to be screened, if known, proposed rate of yield, estimated daily use, and a map or sketch showing the location of the well. In an urban area, the location of the well should be described in reference to the nearest streets. All of the requested information should be submitted, if possible, at least thirty days prior to the beginning of drilling to the following address:

Capital Area Ground Water Conservation Commission
P.O. Box 64526
Baton Rouge, LA 70896

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), repromulgated LR 33:2648 (December 2007).

§905. Effective Date

A. Plans for water wells, excluding those exempted, drilled on or after March 20, 1976, the effective date of the rules and regulations as stated herein, shall be submitted to the commission's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), repromulgated LR 33:2648 (December 2007).

§907. Exemptions

A. As provided for by R.S. 38:3073(3), the following wells are exempt from the commission's rules and regulations for submitting plans for new water wells in the district:

1. wells less than 400 feet in depth;
2. wells serving less than six households;
3. wells used for bona fide agricultural or horticultural purposes; and
4. wells used for both domestic and agricultural purposes but not capable of producing 50,000 gallons per day or more.

B. The following wells, excavations, and holes are not included in the provisions of the rules and regulations as stated herein: seismic holes; cathodic-protection holes; saline-water wells associated with secondary recovery operations; brine-injection wells; water-disposal wells; holes and excavations used in the development and/or exploration of mineral resources, including but not limited to, gravel, salt, and sulphur; excavations and borings associated with the construction of buildings, roads, bridges, and soil boring activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), repromulgated LR 33:2648 (December 2007).

§909. Information for Exempted Water Wells

A. The commission will provide information listed in §901 to any user planning to install a well that is exempted in accordance with §907.A, provided the user submits to the commission the planning information requested in §903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

LR 2:76 (March 1976), repromulgated LR 33:2648 (December 2007).

§911. Water Well Registration

A. The submission of plans as required in §903 does not in any way preempt the state's rules, regulations, and procedures for water well registration as provided for in R.S. 38:3091 through 3097.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 2:76 (March 1976), repromulgated LR 33:2648 (December 2007).

Chapter 11. Determination of and Payment of Accounts

§1101. Purpose

A. The purpose of these rules and regulations are:

1. to establish the time when pumpage charges assessed by the Capital Area Ground Water Conservation Commission in accordance with R.S. 38:3083 are delinquent; and

2. to provide for penalties for violation of Act 678, Regular Session of 1974, as amended by Act 213, Regular Session of 1976, by failure to pay pumpage charges within the time specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2648 (December 2007).

§1103. Applicability

A. The rules and regulations contained herein shall apply to all users in the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, and West Feliciana who are determined by the board of commissioners to be liable for the payment of pumpage charges (R.S. 38:3079).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2648 (December 2007).

§1105. Billing Schedule

A. The commission bills on a quarterly basis with pumpage charges due as follows: For the period October-December, billing date is January 1; for the period January-March, billing date is April 1; for the period April-June, billing date is July 1; and for the period July-September, billing date is October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2648 (December 2007).

§1107. Pumpage Fee

A. With an estimated pumpage of 125 million gallons a day from water wells subject to charges, a rate of \$1.5 per million gallons has been set and is to be paid quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission,

§1109. Determination of When an Account Is Delinquent

0712#106

A. A user's account shall be considered delinquent 60 calendar days after the quarterly billing dates, which are specified above. When the 60 calendar days have expired and a user has not paid the pumpage charges, the commission shall inform the user by certified mail, return receipt requested, that unless payment is received in the commission's office within 15 calendar days of receipt of letter, the user shall be considered in violation of state Act 678, Regular Session of 1974, as amended by state Act 213, Regular Session of 1976.

B. If the user is unable to pay the pumpage charges in the time specified above, the user shall provide the commission valid and substantiated facts, which necessitate the request for an extension of time to pay. The decision to extend the time for payment shall rest solely within the discretion of the Board of Commissioners, Capital Area Groundwater Conservation Commission, and each such request for an extension will be dealt with on a case by case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2649 (December 2007).

§1111. Violation Penalty

A. A user, who has been so notified in accordance with the Section entitled "Determination of When an Account Is Delinquent," herein, who is knowingly and willfully in violation of the provisions of Act 678 and its amendments for failure to pay pumpage charges, shall be subject to a civil penalty that shall be computed on the basis of one percent per day of the amount of the pumpage charges owed until that amount is paid in full. The penalty shall not exceed \$1000 a day for each day of violation and for each act of violation as provided in R.S. 38:3083.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2649 (December 2007).

§1113. Civil Suit and Jurisdiction

A. The place of suit to recover this penalty shall be selected by the board, as may be appropriate, in the district court of the parish of the residence of any one of the defendants, or in the district court of the parish where the violation took place. [R.S. 38:3083(A)(1)]

B. Suit shall be at the direction of the board, and shall be instituted and conducted in its name by the attorney general or by the district attorney of the district under the direction of the attorney general. [R.S. 38:3083(A)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:366 (September 1977), repromulgated LR 33:2649 (December 2007).

RULE

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Louisiana Building Code (LAC 34:III.131)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control has amended Title 34, Government Contracts, Procurement and Property Control, Part III. Facility Planning and Control, Chapter 1. Capital Improvement Projects to add Section 131, Louisiana Building Code for State Owned Buildings. These changes are the result of a review by Facility Planning and Control of the editions of the codes specified by RS 40:1722 and the most recent editions of these codes. This review has led to the determination that new editions of these codes will provide a higher standard than the currently referenced editions. Facility Planning and Control is, therefore, establishing the appropriate editions of these codes as the standards.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part III. Facility Planning and Control

Chapter 1. Capital Improvement Projects

Subchapter A. Procedure Manual

§131. Louisiana Building Code

A. R.S. 40:1722 establishes the Louisiana Building Code and directs that the following codes be established as the standards as minimum standards for this code. These codes shall be established as constituting the code in the editions indicated:

1. the Life Safety Code, Standard 101, 2006 Edition as published by the National Fire Protection Association;
2. Part XIV (Plumbing) of the State Sanitary Code as promulgated by the secretary of the Department of Health and Hospitals;
3. the International Building Code, 2006 Edition as published by the International Code Council;
4. the International Mechanical Code, 2006 Edition as published by the International Code Council;
5. the National Electric Code (NFPA No. 70) 2005 Edition as published by the National Fire Protection Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Facility Planning and Control, LR 8:473 (September 1982), amended LR 11:849 (September 1985), LR 33:2649 (December 2007).

Jerry Jones
Director

0712#053

RULE

Office of the Governor Division of Administration Office of State Purchasing

Use of Brand Name, LaMAS, and Multi-State Contracts (LAC 34:I.1709)

Editor's Note: This Rule was printed in the November 2007 edition of the *Louisiana Register* on pages 2421-2422 in error. The correct effective date is December 20, 2007.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under authority of R.S. 39:1581, Office of the Governor, Division of Administration, State Purchasing, has adopted the following Rule to require purchasing agents to compare contracts and seek best value procurements where multiple contracts exist for like or similar items.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part I. Purchasing

Subpart 1. Central Purchasing Procedures

Chapter 17. Types of Contracts

§1709. Use of Brand Name, LaMAS (Louisiana Multiple Award Schedule), and Multi-State Contracts

A. The state reserves the right to create and use brand name, LaMAS, and multi-state contracts (hereinafter referred to as Louisiana Price Schedules for different brands of same or similar item(s)).

B. Where Louisiana Price Schedules ("LaPS") exist for same or similar item(s) and the procurement is above \$25,000, all eligible users of these contracts will utilize the following procedures.

1. Prepare a request for responses that may include, if applicable the following: (A request for response is an informal process used to make a best value determination)

a. a performance-based statement of work that includes such things as:

- i. the work to be performed;
- ii. location of work;
- iii. period of performance;
- iv. deliverable schedule;
- v. applicable performance standards;
- vi. acceptance criteria;
- vii. any special requirements (e.g., security clearances, special knowledge, etc.);
- viii. the products required using a generic description of products and functions whenever possible;

b. if necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks;

c. a best value determination is one that considers, in addition to underlying contract pricing, such factors as:

- i. probable life of the item selected;
- ii. environmental and energy efficiency considerations;
- iii. technical qualifications;
- iv. delivery terms;
- v. warranty;
- vi. maintenance availability;
- vii. administrative costs;
- viii. compatibility of an item within the user's environment; and

ix. user's familiarity with the item or service;

d. a request for submittal of a firm-fixed total price for labor and/or products which are no higher than prices in the LaPS contract.

2. Submit the request for response to at least three LaPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.

3. Evaluate Responses and Select the Contractor to Receive the Order

a. After responses have been evaluated, the order shall be placed with the contractor that represents the best value that meets the agency's needs. The ordering agency should give preference to small-entrepreneurships or small and emerging businesses when two or more contractors can provide the services and/or products at the same firm-fixed total price.

b. The ordering agency shall document in the procurement file the evaluation of the contractors' responses that formed the basis for the selection. The documentation shall identify the contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.

c. Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

d. Nothing herein relieves a state agency from following Office of Information Technology requirements for submission of IT 10 requests, for annual IT budget requests, or mid-year budget adjustment requests.

e. A listing of all contracts applicable to this Section will be maintained on the Office of State Purchasing's website <http://www.doa.louisiana.gov/osp/osp.htm>

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 33:2650 (December 2007).

Jerry Luke LeBlanc
Commissioner

0712#052

RULE

**Office of the Governor
Office of Financial Institutions**

Applications, Security, General Provisions
(LAC 10:XI.301, XV.503, and XVII.301)

In accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, the Commissioner of the Office of Financial Institutions has approved for advertisement the repeal of three Sections of the Louisiana Administrative Code, LAC 10.XI.301, regarding Supervised Loan/Insurance Premium Financing License Application; LAC 10.XV.503, regarding Defunct Collection Agencies, and LAC 10.XVII.301, regarding Enforcement of the Fair Debt Collection Practices Act. This action is being effectuated because in the case of the LAC 10.XI.301, the statute pertaining to applications has been amended to streamline the application process, and in the cases of LAC 10.XV.503 and LAC 10.XVII.301, the statutes which provided the basis and rationale for their promulgation have been repealed. Thus these Sections are rendered obsolete and no longer necessary.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XI. Consumer Credit

**Chapter 3. Supervised Loan/Insurance Premium
Financing License**

§301. Applications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3550 and 9:3554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:578 (June 1991), repealed LR 33:2651 (December 2007).

Part XV. Other Regulated Entities

**Chapter 5. Debt Collection Agencies
Subchapter A. Defunct Collection Agencies**

§503. Disbursement of Security Monies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.16 (C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:1083 (June 1998), repealed LR 33:2651 (December 2007).

Part XVII. Miscellaneous Provisions

**Chapter 3. Enforcement of Federal Fair Debt
Collection Practices Act**

§301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 1112 of 1992.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:736 (June 1993), repealed LR 33:2651 (December 2007).

John Ducrest, CPA
Commissioner

0712#082

RULE

**Office of the Governor
Recreational and Used Motor Vehicle Commission**

Recreational and Used Motor Vehicles
(LAC 46:V.3601)

Editor's Note: LAC 46:V.3601 was amended in the August 20, 2007 issue of the *Louisiana Register*. It is being repromulgated to correct a codification error.

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Recreational and Used Motor Vehicle Commission, notice is hereby given that the Recreational and Used Motor Vehicle Commission has adopted the following rules and regulations governing Chapter 27, The Recreational and Used Motor Vehicle Commission; Chapter 28, Definitions; Chapter 29, Licenses to be Issued by the Recreational and Used Motor Vehicle Commission; Chapter 31, License for a Salesman; Chapter 35, Buyer Identification Card; Chapter 36, Recreational Products Trade Shows; Motor Vehicle Trade Shows and Off -Site Displays; Chapter 37, Changes to be Reported to Commission; Chapter 39, Business Transactions; Chapter 43, License Renewal; Chapter 44, Educational Seminar; Chapter 45, Complaints; Chapter 47, Procedure for Adjudications before the Recreational and Used Motor Vehicle Commission; Chapter 48, Uniform Procedures to Designate the Territory Assigned to a Marine Dealer; and Chapter 49, Independent Marine Surveyor; and adopt proposed rules and regulations §4710 governing Hearing Procedures for Hearings on Cease and Desists Orders in accordance with R.S. 32.786(D)(1).

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part V. Automotive Industry

Subpart 2. Recreational and Used Motor Vehicles

Chapter 36. Recreational Products Trade Shows

Subchapter A. Recreational Products

§3601. Definitions

Exhibitor—a nonresident dealer who meets the definition of a recreational products dealer subject to license under R.S. 32:811(A), but holds a current dealer license in another state and whose Louisiana business is limited to participation in vehicle trade shows or expositions in this state.

Manufacturer or Distributor—any person, resident or nonresident who fabricates, manufactures, or assembles new and unused vehicles or who in whole or in part maintains distributor representatives licensed under R.S. 32:784.

Permit—a temporary license issued to a licensed used motor vehicle dealer, exhibitor, manufacturer or distributor, to display vehicles at a vehicle trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

Promoter—any person of Louisiana residence who alone or with others assumes the financial responsibility of a

vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:784.

Recreational Products Dealer—any person subject to license under R.S. 32:784 and 811.

Trade Show—a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which three or more used motor vehicle dealers exhibit vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), repromulgated LR 33:2651 (December 2007).

John M. Torrance
Executive Director

0712#001

RULE

Department of Health and Hospitals Board of Dentistry

Dentistry
(LAC 46:XXXIII.120, 306, 322, 505, 706, 1505,
1506, 1507, 1703, 1705, 1709, 1711, and 1713)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.120, 306, 505, 706, 1505, 1506, 1507, 1703, 1705, 1709, 1711, and 1713, and adopts §322. No preamble has been prepared.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§120. Temporary Licenses

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by providing satisfactory documentation that the applicant is duly licensed in another state in good standing and applies for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8). Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 5 months. This Section does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998),

amended LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 33:2652 (December 2007).

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. - A.10. ...

11. if deemed necessary, has appeared for a personal interview before the board;

A.12. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 28:1777 (August 2002), LR 30:2305 (October 2004), LR 31:927 (April 2005), LR 32:243 (February 2006), LR 33:846 (May 2007), LR 33:2652 (December 2007).

§322. Expungement of Disciplinary Actions

A. A dentist may apply for the expungement of a first time advertising violation provided:

1. a period of three years has elapsed from the date the consent decree was executed by the board president or order issued after a disciplinary hearing;

2. the dentist has not had any subsequent disciplinary actions of any kind taken against him by the board or any other licensing or certifying agency since the initial advertising violation in question;

3. has no disciplinary actions or investigations pending at the time of request;

4. the board will retain all records relative to the first advertising violation, and it may use same in connection with future disciplinary proceedings, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 33:2562 (December 2007).

Chapter 5. Dental Assistants

§505. Expanded Duty Dental Assistant Certificate Confirmation Fee and Reconfirmations; Display of Certificate

A. ...

B. All expanded duty dental assistants are required to display their certificate confirmations in a conspicuous place to be seen by all patients seen by the expanded duty dental assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:206 (February 1993), amended LR 33:2652 (December 2007).

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials (Hygienists)

A. - A.10. ...

11. if deemed necessary, has appeared for a personal interview before the board;

A.12. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R. S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 26:692 (April 2000), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 28:1778 (August 2002), LR 33:846 (May 2007), LR 33:2652 (December 2007).

Chapter 15. Conscious Sedation with Parenteral Drugs

§1505. Conscious Sedation with Parenteral Drugs

A. The board shall issue two types of conscious sedation with parenteral drugs permits.

1. A "limited" permit will be issued to those dentists who qualify for such permit by meeting the minimal educational requirements specified in §1509. This permit will be limited to the administration of parenteral drugs via intramuscular (IM), submucosal (SM), intranasal (IN), and subcutaneous (SC) routes only.

2. A "full" permit will be issued to those dentists who qualify for such permit by meeting all minimal educational requirements specified in §1509.

B. In order to receive authorization the dentist must show and produce evidence that he/she complies with the following provisions:

1. completion of an advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1505 of this Chapter; or

2. utilization of the services of a trained medical doctor, doctor of osteopathy trained in conscious sedation with parenteral drugs, certified registered nurse anesthetist, a dentist who has successfully completed a program consistent with Part II of the American Dental Association Guidelines on Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, or a qualified oral and maxillofacial surgeon provided that said doctor or certified registered nurse anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

3. successful completion of a board-approved continuing education course as described in Part III of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a minimum to achieve competency as described in Part III of the previously mentioned guidelines.

C. In addition to the requirements of Subsection B of this Part the dentist must provide proof of current certification in cardiopulmonary resuscitation, course "Advanced Cardiac Life Support" as defined by the American Heart Association, or its equivalent.

D. Provide proof of current certification in Pediatric Advanced Life Support (PALS) when administering sedation to patients under the age of 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994),

amended LR 22:1216 (December 1996), LR 33:2653 (December 2007).

§1506. Conscious Sedation with Enteral Drugs

A. - D. ...

E. For adult patients, the licensee must provide proof of current certification in Advanced Cardiac Life Support as defined by the American Heart Association or its equivalent. For pediatric patients, the licensee must provide proof of current certification in Pediatric Life Support (PALS), or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:793

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 30:2306 (October 2004), amended LR 32:244 (February 2006), LR 33:847 (May 2007), LR 33:2653 (December 2007).

§1507. General Anesthesia/Deep Sedation

A. When general anesthesia or deep sedation is administered, the provisions of this Subsection apply:

1. no dentist shall administer general anesthesia or deep sedation unless said dentist has received authorization by the board evidenced by receipt of a permit from the board;

2. in order to receive authorization the dentist must show and produce evidence that he complies with the following provisions:

a. completion of an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1509 of this Chapter; or successful completion of a program which complies with Part II of the American Dental Association Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dental Education at the Advanced level;

b. provide proof of current certification in the cardiopulmonary resuscitation course "Advanced Cardiac Life Support" as defined by the American Heart Association, or its equivalent;

c. provide proof of current certification in Pediatric Advanced Life Support (PALS) when administering sedation to patients under the age of 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:2057 (November 2006), LR 33:2653 (December 2007).

Chapter 17. Licensure Examinations

§1703. Candidate's Manual for the Dental Licensure Examination of the Louisiana State Board of Dentistry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006), repealed LR 33:2653 (December 2007).

§1705. Candidate's Manual for the Dental Hygiene Licensure Examination of the Louisiana State Board of Dentistry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1118 (June 1998), amended LR 32:245 (February 2006), repealed LR 33:2653 (December 2007).

§1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs. There shall be an application fee set by the Council of Interstate Testing Agencies. There shall also be an examination fee set by the Louisiana State University School of Dentistry.

B. - B.4. ...

C. To be licensed as a dentist in this state, an applicant must successfully complete the clinical licensing examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB).

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007).

§1711. Examination of Dental Hygienists

A. Any person desiring to be licensed as a dental hygienist shall apply to the Council of Interstate Testing Agencies and shall verify the information required on the application by oath. The application shall include two recent photographs of the applicant. There shall be a nonrefundable application fee set by the Council of Interstate Testing Agencies, and a clinical fee payable to the Louisiana State University School of Dentistry which shall not exceed \$100 and which may be refundable if the applicant is found ineligible to take the examination.

B. - B.4. ...

C. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene;

2. a practical or clinical examination as administered by the Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Board (NERB), Southern Regional Testing Agency (SRTA), American Dental Examination (ADEX), or Western Regional Examining Board (WREB) which shall test the competency of the applicant's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007).

§1713. Examination Application Deadlines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1779 (August 2002), repealed LR 33:2654 (December 2007).

C. Barry Ogden
Executive Director

0712#110

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Definitions and Requirements for Licensure (LAC 46:LX.503 and 705)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, the Licensed Professional Counselors Board of Examiners hereby amends its existing rules and regulations relative to the scope of practice by Licensed Professional Counselors, as well as the education and clinical supervision requirements for counselor interns. The majority of these revisions are necessary to comply with Act 206 of 2007, and the remainder are proposed to clarify existing rules.

The Licensed Professional Counselors Board revises §503 "Definitions for Licensed Professional Counselors," and §705, "Supervised Experience of Counselor Interns," relative to those changes set forth above.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

§503. Definitions for Licensed Professional Counselors

A. For purposes of this Rule, the following definitions will apply:

Board—the Louisiana Licensed Professional Counselors Board of Examiners.

Licensed Professional Counselor—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the counselor assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

Mental Health Counseling/Psychotherapy Services—those acts and behaviors coming within the practice of mental health counseling as defined in this Chapter, including diagnosis and treatment of conditions or disorders requiring mental health counseling/psychotherapy as defined in R.S.37:1103(4)(a). However, nothing in this Chapter shall be construed to authorize any person licensed hereunder to administer or interpret test in accordance with the provision of R.S.37:2352(5), except as provided by LAC 46:LXIII.1702.E of the Louisiana Administrative Code, or engage in the practice of psychology or to prescribe, either

orally or in writing, distribute, dispense, or administer any medications.

Practice of Mental Health Counseling/Psychotherapy—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but are not limited to:

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group, through psychotherapy and the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. *Mental Health Counseling Practicum*. Licensure requires the completion of a mental health counseling/psychotherapy practicum totaling 100 clock hours. The practicum includes:

(a) a minimum of 40 hours of direct counseling/psychotherapy with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member.

(c) a minimum of one and one-half hours per week of group supervision with other students in similar practical or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. *Mental Health Counseling Internship*. Licensure requires the completion of a mental health counseling/psychotherapy internship totaling 300 clock hours. The internship includes:

(a) a minimum of 120 hours of direct counseling/psychotherapy with individuals or groups;

(b) a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an approved on-site supervisor that meets the supervisor requirements of the university.

a.ii.(c). - e.iii. ...

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university as defined in Chapter 7.

i. a CACREP accredited—program or its equivalent as determined by the board.

g. In addition, the above should not be construed to include degrees in disciplines licensed elsewhere by the state of Louisiana (e.g., social work, psychology) with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. *Supervision*—the process as defined in Chapter 7, §705 whereby a board-approved supervisor assists a counselor intern in developing expertise in the use of mental health counseling/psychotherapeutic practices.

i. *Approved Supervisor*—an individual who has received a letter from the board certifying that he has met all the requirements for *approved supervisor* as defined in Chapter 7, §705.

j. *Counselor Intern*—an individual who has received a letter from the board certifying that he has met all the requirements for counselor intern as defined in Chapter 7, §705.

k. other definitions specific to licensed marriage and family therapists and MFT Interns can be found in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007).

Chapter 7. Requirements for Licensure of Licensed Professional Counselors

§705. Supervised Experience of Counselor Intern

A. Supervision Requirements

1. Supervision is defined as assisting the counselor intern in developing expertise in methods of the professional mental health counseling practice and in developing self-appraisal and professional development strategies. Supervision must comply with standards as set by the board.

2. Pursuant to R.S. 37:1107(A), an applicant for license must document a minimum of 3,000 hours of post-master's experience in professional mental health counseling under the clinical supervision of a board-approved supervisor, with said supervision occurring over a period of no less than two years and not more than seven years from the original date such supervision was approved. Five hundred hours of supervised experience may be gained for each 30 graduate semester hours earned beyond the required master's degree provided that such hours are clearly related to the field of mental health counseling, are earned from a regionally accredited institution, and are acceptable to the board, provided that in no case the applicant has less than the 2,000 hours of board-approved supervised experience within the aforementioned time limits. Only those applicants already receiving board-approved supervision prior to June 30, 1998 are exempt from the aforementioned time allowance.

a.i. Based on the above, the required 3,000 hours of counseling/psychotherapeutic experience shall be accrued in the following manner.

(a.) a minimum of 1,900 hours (up to 2,900) in direct counseling/psychotherapeutic services involving individuals, couples, families, or groups.

a.i.(b). - b. ...

c. To be eligible for supervision as a counselor intern, the applicant must provide proof of completion of a supervised practicum and internship as listed in §503, Definitions and each of the following eight content area. In order for a course to fulfill a content area requirement, it must include in a substantial manner, the area in the description for the content areas.

i. *Counseling/Psychotherapy Theories of Personality*. Description: counseling/psychotherapy theories including both individual and systems perspectives; research and factors considered in applications of counseling/psychotherapy theories; or theories of personality including major theories of personality.

ii. - iii. ...

iv. Techniques of Counseling/Psychotherapy.

Description: basic interviewing, assessment, and counseling/psychotherapeutic skills; counselor characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and non verbal behaviors and personal characteristics, orientations, and skills; client characteristics and behaviors that influence helping processes including age, gender and ethnic differences, verbal and non verbal behaviors and personal characteristics, traits, capabilities, and life circumstances.

v. Group Dynamics, Processes, and Counseling/Psychotherapy. Description: principles of group dynamics including group process components, developmental stage theories, and group members' roles and behaviors; group leadership styles and approaches including characteristics of various types of group leaders and leadership styles; theories of group counseling/psychotherapy including commonalities, distinguishing characteristics, and pertinent research and literature; group counseling/psychotherapeutic methods including group counselor orientations and behaviors, ethical standards, appropriate selection criteria and methods, and methods of evaluation of effectiveness; approaches used for other types of group work, including task groups, prevention groups, support group, and therapy groups.

2.c.vi. - 5. ...

6. The process of supervision must encompass multiple modes of supervision, including regularly scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions. The process may also include discussion of the counselor intern's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques. (*Supervision* as defined in these rules does not require the approved supervisor to be in the same room with the counselor intern during the intern's provision of services to clients.)

7. - 11. ...

12. The counselor intern must have received a letter from the board certifying that he has met all the requirements for *Counselor Intern* as defined in this Chapter.

A.13. - B.3. ...

C. Responsibility of Applicant under Supervision

1. During the period of supervised counseling/psychotherapy experience, the proper identification title is counselor intern. Counselor interns shall not identify themselves as LPC Interns.

2. - 3. ...

4. Counselor interns may not initiate a private practice during their period of supervised counseling/psychotherapy experience. Counselor interns employed within their supervisors' private practice setting, or in a similar outpatient setting, cannot, under any circumstances bill clients directly for services they render, unless the counselor intern is authorized to participate in the private practice by authority of a separate license issued by the state of Louisiana.

5. Upon completing of the required number of hours and a minimum two years of supervised counseling/psychotherapy experience, the counselor intern shall submit all license application forms, along with a fee to the board. A counselor intern must continue under

supervision until notification from the board that licensure has been granted.

C.6. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 18:269 (March 1992), amended LR 21:465 (May 1995), LR 22:102 (February 1996), LR 24:1294 (July 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:132 (February 2003), LR 33:2655 (December 2007).

Gloria Bockrath, Ph.D.
Chairman

0712#029

RULE

Department of Insurance Office of the Commissioner

Regulation 69—Year 2000 Exclusions (LAC 37:XIII.Chapter 87)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals Regulation 69—Year 2000 Exclusions.

The purpose of Regulation 69 was to set parameters on the use of Year 2000 (Y2K) exclusions and endorsements in order to protect the public interest and to assure the continued viability of the insurance market in this state. Although Regulation 69 was to provide precautionary measures in the event of a Y2K problem, the need for such protection to address coverage issues related to any Y2K problem no longer exists. Therefore, Regulation 69 is being repealed in its entirety.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 87. Regulation 69—Year 2000 Exclusions Subchapter A. General Provisions

§8701. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:2656 (December 2007).

§8703. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:2656 (December 2007).

§8705. Scope and Applicability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner LR 25:1256 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:2657 (December 2007).

§8707. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), repealed LR 33:2657 (December 2007).

§8709. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1256 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:2657 (December 2007).

§8711. Forms Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:620E.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), repealed LR 33:2657 (December 2007).

Subchapter B. Admitted Insurers

§8713. Underwriting Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1262 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), repromulgated LR 26:86 (January 2000), repealed LR 33:2657 (December 2007).

§8715. Monitoring of Market Conduct

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., R.S. 22:941, R.S. 22:1215, R.S. 22:1262, R.S. 22:1262.1, R.S. 22:1301 and R.S. 22:1404.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1257 (July 1999), amended LR 26:86 (January 2000), repealed LR 33:2657 (December 2007).

§8717. Representations and Warranties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 22:619 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 27:87 (January 2000), repealed LR 33:2657 (December 2007).

§8719. Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 26:87 (January 2000), repealed LR 33:2657 (December 2007).

§8721. Exemptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1258 (July 1999), amended LR 26:87 (January 2000), repealed LR 33:2657 (December 2007).

Subchapter C. Surplus Lines Insurers

§8723. Mandatory Policyholder Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:2657 (December 2007).

§8725. Claims Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:2657 (December 2007).

§8727. Issuance of Notices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3 and R.S. 22:1262.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:87 (January 2000), repealed LR 33:2657 (December 2007).

Subchapter D. Administrative Actions

§8729. Hearings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:88 (January 2000), repealed LR 33:2657 (December 2007).

§8731. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3, R.S. 22:1211 et seq., and R.S. 22:1457.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:88 (January 2000), repealed LR 33:2657 (December 2007).

James J. Donelon
Commissioner

0712#071

RULE

Department of Insurance Office of the Commissioner

Regulation 82—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 123)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts Regulation 82 regarding the Insure Louisiana Incentive Program.

Due to the catastrophic losses caused by Hurricane Katrina and Hurricane Rita, many insurers have reduced

their participation in the voluntary market for residential and commercial property insurance. This reduction has led to competitive pressure on insurance rates, and unaffordable and unavailable insurance for property owners. As a result, many property owners may be forced to seek coverage through the Louisiana Citizens Property Insurance Corporation for their property insurance needs thereby increasing Citizens exposure to increased deficits and assessments.

In an effort to attract new insurers to this state and to provide adequate and affordable insurance to property owners of this state, the Insure Louisiana Incentive Program was enacted through the passage of Act 447 of the 2007 Regular Session of the Louisiana Legislature. The purpose of the Insure Louisiana Incentive Program is to encourage insurers to participate in the voluntary property insurance market for the purposes of increasing the availability of property insurance and competitive pressure on insurance rates, and reducing the volume of business written by the Louisiana Citizens Property Insurance Corporation. Regulation 82 sets forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. Through cooperative endeavor agreements, insurers participating in the program may be awarded matching grant funds in order to achieve the requirements of Act 447. Regulation 82 further specifies these requirements and conditions thereof by qualified property insurers.

As a result of the impact of Hurricane Katrina and Hurricane Rita, it is critical that property owners have affordable and adequate insurance coverage in order to maintain the viability of this state's insurance market and to avoid any future perils that may arise from the upcoming hurricane season. Regulation 82, therefore, is being promulgated to accomplish this purpose.

Title 37

INSURANCE

PART XIII. Regulations

Chapter 123. Regulation 82—Insure Louisiana Incentive Program

§12301. Purpose

A. The purpose and intent of Regulation 82 is to exercise the authority and carry out the duties and responsibilities of the Commissioner of Insurance for implementation and regulation of the Insure Louisiana Incentive Program, hereinafter referred to as the "Incentive Program." Regulation 82 sets forth rules and procedural requirements which the Commissioner of Insurance deems necessary for participation in the Incentive Program by qualified property insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007).

§12303. Authority

A. Regulation 82 is promulgated pursuant to the authority and responsibility delegated to the Commissioner of Insurance under R.S. 22:3301 through 3311 and pursuant to the general powers granted by law to the commissioner and the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007).

§12305. Applicability and Scope

A. Regulation 82 applies to all property insurers with respect to their qualification and participation in the Incentive Program.

B. Regulation 82 governs all aspects of the Incentive Program including, but not limited to, the application process for grants, the qualifications of grantees, the award of grants, the use of grant funds, the reporting requirements for grantees, the requirements for matching capital funds, the requirements for minimum capital and surplus, the requirements for earned capital and other regulation and administration of the Incentive Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007).

§12307. Definitions

A. For the purposes of Regulation 82, the following terms shall have the meaning or definition as indicated herein.

Approved Unauthorized Insurer—an insurer without a certificate of authority, or otherwise qualified under the provisions of Title 22, and which is on the list of approved unauthorized insurers under the provisions of R.S. 22:1262.1, and from which a licensed surplus lines broker may procure insurance under the provisions of R.S. 22:1257.

Commissioner—the Commissioner of Insurance of the state of Louisiana.

Department—the Department of Insurance of the state of Louisiana.

Domestic Insurer—an insurer formed under the laws of the state of Louisiana that has been authorized by the department to sell insurance products in the state of Louisiana.

Grantee—a property insurer to whom a grant is made from the Incentive Program Fund.

Incentive Program (where capitalized)—the Insure Louisiana Incentive Program as created, authorized and administered pursuant to R.S. 22:3301 et seq., and Regulation 82.

Incentive Program Fund (where capitalized)—the Insure Louisiana Incentive Program Fund established and created pursuant to R.S. 22:3311 and Regulation 82.

Net Written Premiums—the total premiums, exclusive of assessments and other charges, paid by policyholders to an insurer for policies that comply with Regulation 82, minus any return premiums or other premium credits due policyholders, as defined in R.S. 22:3309(A).

Non-Admitted Insurer—an insurer that has not been licensed by the department to sell insurance products in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2658 (December 2007).

§12309. Matching Capital Grants

A. From funds appropriated by the legislature for the Incentive Program Fund established and created in the state treasury under R.S. 22:3311, the commissioner may grant matching capital funds to qualified property insurers in accordance with the requirements of R.S. 22:3301 through 3311 and Regulation 82.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007).

§12311. Public Invitation for Grant Applications

A. Pursuant to R.S. 22:3301 et seq., and Regulation 82, the commissioner shall issue an initial public invitation to property insurers to submit applications for grants under the Incentive Program.

B. The invitation shall be published for at least a 30-day period on the department's web site and in state and national insurance journals and publications as the commissioner deems appropriate.

C. The invitation shall describe the Incentive Program and provide general information about the grant application process.

D. The invitation shall set a deadline for receipt of grant applications. All grant applications should be submitted to the department either by certified mail, return receipt requested, or actual delivery by a commercial interstate courier. Failure to timely submit a grant application may render the insurer ineligible to participate in the Incentive Program. However, for good cause shown, the commissioner may extend the deadline and consider applications received after the deadline or give an insurer the opportunity to cure a non-substantive deficiency in the application.

E. In the event that all monies in the Incentive Program Fund are not allocated in response to the first invitation, the commissioner shall issue a second invitation for grant applications in the form and pursuant to the procedures utilized for the first invitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007).

§12313. Applications

A. The department shall prepare an application form to be fully completed by grant applicants. The application form may be revised by the department as it deems appropriate.

B. The grant application shall require the property insurer to designate a point of contact with a telephone number and physical address to represent the property insurer on all matters pertaining to the grant process and the Incentive Program.

C. The grant application shall be filed contemporaneously with the application for licensure with the department by a non-admitted insurer. The application for licensure expresses the applicant's intent to become licensed in this state and, if specifically requested in writing by the grant applicant in the application for licensure, will be processed contingent upon approval of the allocation of a grant award.

D. Only fully completed grant applications or those deemed acceptable by the commissioner shall be considered for a grant award.

E. The grant application, whether completed by an admitted or non-admitted insurer, shall be submitted to the department's Office of Financial Solvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007).

§12315. Qualifications for Applying for Grant Funds

A. Minimum Solvency Requirements. Grants shall be made only to property insurers who initially satisfy and thereafter maintain the following minimum solvency requirements:

1. capital and surplus in an amount not less than \$25,000,000;

2. A.M. Best rating of B++ or better or an equivalent rating by a nationally recognized rating service;

3. risk-based capital ratio of 500 percent; and

4. sufficient reinsurance to demonstrate that its reinsurance program is sufficient for the amount of business to be written pursuant to the Incentive Program.

B. Certificate of Authority

1. A property insurer must have an existing certificate of authority in Louisiana for the line or lines of insurance which the insurer applicant will write pursuant to the Incentive Program or documentation that an application for such licensure has been filed with the Company Licensing Division of the department contemporaneous with the filing of the grant application.

C. Satisfactory Prior Experience

1. Grants shall be made only to property insurers with satisfactory prior experience in writing property insurance or to new property insurers whose management has satisfactory experience in property insurance. The grant application shall accurately disclose the prior experience of property insurers and their management. The commissioner may request additional information from the applicant insurer and conduct such investigation of prior experience as the commissioner deems appropriate.

2. The commissioner shall determine whether an applicant insurer has adequate or satisfactory prior experience.

D. Other Requirements

1. Applicant shall maintain premium to surplus ratio no greater than 4 to 1 pursuant to R.S. 22:891.1.A.

2. Applicant shall not insure more than 10 percent of its surplus in any one risk pursuant to R.S. 22:1470.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007).

§12317. Award and Allocation of Grants

A. Subject to the requirements of this Section, the commissioner shall award and allocate grants among qualified property insurers who have applied for grants as the commissioner deems appropriate to carry out the purpose and intent of the Incentive Program. The commissioner has the discretion to create an advisory committee to assist in the

analysis of grant applications. If created, the advisory committee will be composed of up to seven members, designated to serve thereon by the commissioner.

B. The factors considered in awarding grants shall include, but are not limited to, the following:

1. the financial strength and satisfactory prior experience of the applicant;

2. the ability of the applicant to invest new capital and to comply with the other requirements of the grant;

3. the potential of the applicant for providing property insurance as required by the Incentive Program at reasonable and competitive costs, particularly for property owners in the Louisiana parishes included in the federal Gulf Opportunity Zone Act of 2005. The current 37 parishes in the Gulf Opportunity Zone are Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana. These parishes may be subject to change by subsequent legislation;

4. the marketing and claims handling capability and experience of the applicant, and particularly its ability to market property insurance in areas affected by Hurricane Katrina and Hurricane Rita and to handle future claims that may arise;

5. the applicant's longevity in the Incentive Program including a statement or plan of operation by the applicant demonstrating its intent to remain in this state following the completion of the Incentive Program;

6. the current licensure of the applicant where preference and priority will be given to those admitted insurers that are currently licensed to do business in this state for the line or lines of business that are the subject of the grant; and

7. any other factors that the commissioner deems applicable, relevant and appropriate in carrying out the purpose and intent of the Incentive Program.

C. For grant applications in response to the initial invitation, the commissioner shall not allocate individual grants less than \$2,000,000 nor in excess of \$10,000,000.

D. For the initial allocation of grants only, the commissioner shall allocate at least 20 percent of the total amount available for grants to domestic insurers unless the commissioner has not received sufficient applications from qualified domestic insurers to allocate such sum.

E. If the commissioner issues a second invitation for grant application, the commissioner shall not allocate individual grants less than \$2,000,000 nor in excess of \$10,000,000. Insurers who have been allocated a grant in response to the first invitation may apply for and receive an additional grant, provided the total of the grants to an insurer does not exceed \$10,000,000.

F. In no event shall the total amount of the grant to an insurer exceed 20 percent of that insurer's capital and surplus as reported to and verified by the department.

G. Prior to the award of a grant, such grant shall be subject to the review and approval of the Joint Legislative Committee on the Budget. The commissioner shall provide written notice to the committee of the grant awards that have

been approved. Upon written approval by the committee, the commissioner will be authorized to award the grant and deliver the amount of the grant to the grantee from monies in the Incentive Program Fund.

H. In the event that monies remain in the Incentive Program Fund after allocations pursuant to the second invitation, the commissioner shall cause all remaining monies to be returned to the state general fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2659 (December 2007).

§12319. Authorized Insurers

A. A non-admitted insurer, including an approved unauthorized insurer, may apply for a grant, provided that the non-admitted insurer shall, contemporaneously with the grant application, file an application for licensure with the department for the line or lines of insurance for which the non-admitted insurer, including an approved unauthorized insurer, must be authorized and licensed to write for a grant award. If specifically requested in writing by the grant applicant in the application for licensure, such application will be processed contingent upon approval of a grant award.

B. A non-admitted insurer, including an approved unauthorized insurer, must become admitted and licensed to do business in Louisiana before it may actually receive grant funding.

C. If the non-admitted insurer does not apply timely to be admitted or subsequently is not approved as an admitted and licensed insurer, the non-admitted insurer shall not be entitled to receive a grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007).

§12321. Matching Capital Requirements

A. To be eligible for a grant, the insurer shall make a commitment of capital at least equal to the amount of the grant to write property insurance in Louisiana that complies with the requirements of R.S. 22:3309 and §12323 of Regulation 82. Grants from the Incentive Program Fund must be matched by such newly allocated insurer capital at a ratio of at least one dollar of allocated insurer capital funds for each dollar of state capital grant funds.

B. Within 10 days of receipt of any Incentive Program Funds, the insurer shall provide to the commissioner written certification signed by two principal officers of the grantee that the Incentive Program Funds have been deposited in an account held in the name of the insurer applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2660 (December 2007).

§12323. Property Insurance Requirements

A. The grantee shall write new property insurance in Louisiana of the types described in R.S. 22:3309 and this Section of Regulation 82 with net written premiums of at least a ratio of \$2 of premium for each \$1 of the total of newly allocated insurer capital combined with the grant from

the Incentive Program Fund. Thus, if the insurer allocates \$2,000,000 in capital and receives a matching state grant of \$2,000,000, the insurer must write property insurance in Louisiana with net written premiums of at least \$8,000,000.

B. To comply with the requirements of the grant, the new property insurance written by the grantee shall be residential, commercial, mono-line, or package property insurance policies in Louisiana and must include coverage for wind and hail with limits equal to the limits provided for other perils insured under such policies.

C. The net written premium requirements of this Section will be satisfied only by new property insurance coverages reported on the Annual Statement State Page filed with the department under lines 1 (Fire), 2.1 (Allied Lines), 3 (Farmowners), 4 (Homeowners), or 5.1 (Commercial Multi-peril Non-liability).

D. Grantees shall also comply with the following.

1. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall maintain at least 25 percent of the net written premiums for policyholders whose property was formerly insured by the Louisiana Citizens Property Insurance Corporation. At least 50 percent of such policyholders insured by the Louisiana Citizens Property Insurance Corporation shall be located in the parishes included in the federal Gulf Opportunity Zone Act of 2005.

2. By the end of the second year after receipt of the grant and in each succeeding year, the grantee shall write at least 50 percent of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone Act of 2005.

3. The grantee must comply with the requirements of both §12323.D.1 and 2 by the end of the second year and must continue to comply with all requirements in each of the succeeding years of the grant unless an extension has been granted by the commissioner under R.S. 22:3310.B or §12331.C of Regulation 82.

4. The requirements of §12323.D.1 and 2 apply separately, but net written premiums from policyholders formerly insured by the Louisiana Citizens Property Insurance Corporation with property in the federal Gulf Opportunity Zone used to comply with D.1 may also be used to comply with D.2.

5. The net written premium ratios of §12323.D.1 and 2 apply only to the net minimum premium required under §12323.A. Thus the grantee may write additional Louisiana property coverage without regard to ratios required by §12323.D.1 and 2.

E. The requirements of the grant that must be satisfied by the grantee are illustrated by the following example assuming a grant of \$2,000,000.

1. Example

a. The applicant is awarded a \$2,000,000 grant. Within 10 days of receipt of the grant of Incentive Program Funds, the applicant must match the grant with newly allocated capital funds of at least \$2,000,000 and provide written certification of compliance to the department. By the end of the second year after receipt of the grant, the grantee must write property insurance in Louisiana with net written premiums of at least \$8,000,000. At least \$2,000,000 of the \$8,000,000 of net written premiums must be written for policyholders whose property was formerly insured by the

Louisiana Citizens Property Insurance Corporation and at least \$1,000,000 of that premium must be from policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year after receipt of the grant, the grantee must write at least \$4,000,000 of the net written premiums for policyholders whose insured property is located in Louisiana in a parish included in the federal Gulf Opportunity Zone of 2005. By the end of the second year and for each of the succeeding years of the grant, the grantee must maintain net written premiums that comply with all of the requirements set forth above. Compliance with the requirements for the second year and each succeeding year must be demonstrated on the grantee's annual reports.

F. Applicants shall also satisfy the requirements for licensing, form filings, rate filings, and any other applicable provisions contained in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007).

§12325. Earned Capital

A. An insurer who has received a grant is entitled to earn the grant at the rate of 20 percent per year for each year in which the insurer is in compliance with the requirements of R.S. 22:3301 et seq., and Regulation 82, so that the insurer can earn the entire grant after five years of full compliance with the requirements.

B. The grantee may begin to earn the grant from the reporting period in which the grantee first demonstrates that its net written premiums have reached compliance with all requirements of both §12323.D.1 and 2. The grantee will earn 20 percent of the grant in each 12 month period thereafter in which the grantee demonstrates that it has maintained compliance with all requirements for net written premiums. Thus, if in compliance with §12323.D.1 and 2, the grantee may begin to earn the grant at the end of the first year.

C. Upon receipt of satisfactory documentation of full compliance with the net written premium requirements during the preceding 12 months, the commissioner will issue written declaration that the grantee has earned 20 percent of the grant awarded to the grantee. No funds may be earned by the grantee until it receives official notification from the commissioner certifying that the requirements of the program have been met.

D. If the grantee does not meet the grant requirements during any year but shows promise of future compliance based on good cause having been demonstrated, the commissioner may extend the period of time from five years in order for the grantor to earn the entire grant. The extension may be granted for up to one year. Such grantee shall not be entitled to earn the Incentive Program Funds (i.e., 20 percent of the grant award) for that year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2661 (December 2007).

§12327. Funding Schedule

A. Unless requested by the grantee and authorized by the commissioner, a grant that has been fully approved shall be funded on the next regular quarterly period thereafter, i.e., January 1, April 1, July 1, or October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007).

§12329. Reporting Requirements

A. Grantee shall segregate and report any grants received on the line titled "Aggregate Write-In for Special Surplus Funds" in the NAIC Annual and Quarterly Statement Blanks.

B. Grantee shall report annually by March 1 of each year on a form acceptable to the commissioner the following information:

1. the amount of premium written under the program;
2. the amount of premium associated with policies for which the Louisiana Citizens Property Insurance Corporation was the immediate previous insurer;
3. the amount of premium associated with properties located in the Federal Gulf Opportunity Zone Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007).

§12331. Compliance

A. The commissioner shall conduct an examination and/or investigation annually, or more often as the commissioner deems necessary to determine the grantee's compliance with the requirements of the grant, as per R.S. 22:3301 et seq., and Regulation 82. Any examination or investigation shall be performed pursuant to R.S. 22:1301 et seq. In addition to the requirements of R.S. 22:1301 et seq., the department may require such reports and/or conduct such examinations or investigations as the commissioner deems necessary to verify compliance with the property insurance requirements set forth in the Incentive Program and Regulation 82.

B. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:3310.

C. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee insurer who has failed to satisfy all requirements of the grant. Such grantee shall not be entitled to receipt of Incentive Program Funds for that year, until full compliance is achieved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007).

§12333. Declaration of Default

A. The commissioner may declare an insurer in default of the requirements for a grant should he find any of the following exists.

1. The insurer fails at any time to meet the specific minimum requirements of §12315.A.1-4.

2. The insurer fails to maintain a certificate of authority for the line or lines of insurance written pursuant to the grant program.

3. The insurer fails to meet the specific requirements of §12323.

4. The insurer fails to comply with any other applicable provisions of R.S. 22:3301 et seq., or Regulation 82.

B. If the commissioner determines that a grantee has failed to satisfy one or more of the requirements of the grant and that an extension will not be granted, the commissioner may declare the grantee in default. The commissioner shall notify the grantee in writing that the grantee is in default. Any grantee declared in default by the commissioner shall have 30 days from the date of the declaration of default to request reconsideration by the commissioner. The written request for reconsideration shall set forth, in detail, each and every reason why the grantee is entitled to the relief requested, including any documents tendered in support thereof. The commissioner shall have 30 days from the mailing of the request for reconsideration to review it and render a decision. The commissioner's decision upon reconsideration is final. Unless modified on reconsideration, the default is effective from the date of the original declaration.

C. The grantee in default is liable for and shall repay all grant funds that have not been earned by the grantee, plus legal interest from date of the commissioner's default declaration. If a request for reconsideration is not timely made, repayment is due upon the expiration of 30 days from the declaration of default. If a request for reconsideration is timely made and denied, repayment is due within 10 days of the denial of the reconsideration request.

D. The commissioner may institute legal action to recover all sums due by the grantee in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007).

§12335. Cooperative Endeavor Agreements

A. In furtherance of R.S. 22:3301 et seq., and in accordance with R.S. 22:3303.A, the grantee shall execute a cooperative endeavor agreement with and in a form prescribed by the commissioner subject to approval by the Office of Contractual Review of the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2662 (December 2007).

§12337. Severability

A. If any provision of Regulation 82 or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of Regulation 82 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 82 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007).

§12339. Effective Date

A. Regulation 82 shall become effective on the date of the publication of the final rule in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:3301 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:2663 (December 2007).

James J. Donelon
Commissioner

0712#070

RULE

Department of Labor Office of Unemployment Insurance Administration

Lost Wage Benefits for Domestic Violence Victims (LAC 40:IV.Chapter 5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Employment Security Law, R.S. 23:1471 et seq., the Office of Unemployment Insurance Administration of the Department of Labor, has adopted Chapter 5. This Chapter enables and applies to the provisions of the "Lost Wage Benefits for Domestic Violence Victims Act" (R.S. 23:1700-75), which was enacted by the 2007 Regular Session. The Rule promotes the public interest by ensuring that victims of domestic violence, if otherwise qualified and eligible, can receive unemployment insurance benefits even though the victims do not meet the requirements under R.S. 23:1601(1) and (2).

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Subpart 1. Board of Review

Chapter 5. Lost Wage Benefits for Domestic Violence Victims

§501. Terminology Pertaining to Lost Wages for Domestic Violence Victims

A. Definitions

Domestic Abuse—includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. Minors are not excluded. *Domestic abuse* also includes abuse of persons 60 years of age or older and any disabled person 18 years of age or older when committed by an adult child or adult grandchild.

Family Members—spouses, former spouses, parents and children stepparents, stepchildren, foster parents and foster children.

Household Members—any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse whether married or not, who is seeking protection under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2663 (December 2007).

§503. Administration of Funds

A. Benefits under the Lost Wage Benefits for Domestic Violence Victims Act are provided to individuals who have lost their employment due to domestic violence and who, otherwise, would not be eligible for unemployment insurance benefits. Towards this end, it shall be the agency's intent to apply all rules, regulations, and laws of the unemployment insurance program with the exception of those clearly excluded by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2663 (December 2007).

§505. Manner of Distribution

A. The application for and the distribution of benefits under this program shall be in the same manner and using the same methods as those of regular unemployment insurance benefits.

B. The records shall be maintained in a manner that allows for the monitoring and auditing of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2663 (December 2007).

§507. Maximum Benefit Amount

A. The total benefit amount payable under the domestic violence victims program will be reduced by any amount paid from regular unemployment benefits and shall not exceed the maximum benefit amount established in the monetary determination of the unemployment insurance claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2663 (December 2007).

§509. Filing Period

A. A claimant shall be eligible to file one new claim per calendar year. The term "new claim" is the first initial claim filed to request a determination of entitlement to and eligibility for compensation which results in an agency generated document of an appealable monetary determination provided to the potential claimant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2663 (December 2007).

§511. Deductions

A. The following shall not be deducted from benefits of domestic violence victims:

1. severance pay;
2. vacation pay;
3. holiday pay;
4. bonus pay;
5. WARN Act pay;
6. wages in lieu of notice;
7. separation/dismissal pay;

8. tips/gratuities;
9. Workers' Compensation;
10. military retirement pay; and
11. other periodic payment based on previous work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2664 (December 2007).

§513. Availability of Claimant

A. The requirements that an individual must be able to work, available for work and making an active search for work each week will not apply if the conditions that qualified the individual for the program do not permit him/her to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653-1654, R.S. 23:1770-1775 and R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Unemployment Insurance Administration, LR 33:2664 (December 2007).

Bennett J. Soulier
Secretary

0712#037

RULE

Department of Labor Office of Workforce Development Apprenticeship Division

Apprenticeship Tax Credit (LAC 40:IX.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Department of Labor has adopted certain rules concerning the Apprenticeship Program.

This Rule is adopted pursuant to Act 472 of the 2007 Regular Session of the Louisiana Legislature which established an Apprenticeship Tax Credit for eligible employers.

Title 40

LABOR AND EMPLOYMENT

Part IX. Apprenticeship

Chapter 7. Apprenticeship Tax Credit

§701. Authority

A. Under the authority set out in Act 472 of the 2007 Regular Session of the Louisiana Legislature, a tax credit is hereby provided as an incentive for businesses to employ eligible apprentices with a goal toward providing an adequate number of Louisiana citizens in the workforce with the on-the-job training necessary to find jobs and keep those good paying jobs already present as well as those jobs that would be here if more of the workforce was of higher quality. The Secretary of Labor is required to adopt regulations for the purpose of implementing this Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2664 (December 2007).

§703. Definitions

Department—the state Department of Labor, Apprenticeship Division.

Eligible Apprentice—a person who has entered into a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program as provided for in Chapter 4 of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:381 et seq.)

Employer or Requesting Party—any person or organization employing an eligible apprentice either as a recognized program sponsor or as an obligated employer participant in an apprenticeship training program under a different program sponsor registered with the department. It may also be any person or organization employing an NCCER apprentice in accordance with this Chapter.

NCCER—the National Center for Construction Education and Research.

NCCER Apprentice—a person who is enrolled in a training program accredited by the National Center for Construction Education and Research which has no less than four levels of training and no less than 500 hours of instruction.

Program Sponsor—any person or organization operating a state apprenticeship program registered by and in good standing with the state Department of Labor, Apprenticeship Division.

Revenue—the Louisiana Department of Revenue.

Secretary of Labor—the administrator of the state Department of Labor, or any person specifically designated by the Secretary of Labor, Department of Labor who with the advice of the state Director of Apprenticeship, executes apprenticeship policy and standards.

Standards of Apprenticeship—an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation and in accordance with §301 of this Part.

State Apprenticeship Program—a program registered by and in good standing with the state Department of Labor, Apprenticeship Division and meeting the minimum standards of the state apprenticeship law.

State Director of Apprenticeship—the administrator of the state Department of Labor, Apprenticeship Division, or any person specifically designated by the state Director of Apprenticeship who is authorized to administer the provisions of Louisiana apprenticeship law and rule.

Taxpayer—any corporation, S corporation, partnership, or individual subject to income and/or franchise taxes imposed under Title 47 of the Louisiana Revised Statutes.

Taxable Period—the taxpayer's annual accounting period, whether it be a calendar year or a fiscal year or the period for which the return is made, if a return is made for a period of less than 12 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2664 (December 2007).

§705. Purpose

A. The Louisiana State Legislature has determined that a major impediment to the economy of the state is the lack of an adequate number of people in the workforce with sufficient on-the-job training to find and keep good paying jobs already present as well as those that would be here if more of the workforce was of higher quality. The purpose of

this tax credit is to provide an incentive for businesses to employ apprentices with a goal toward providing such a workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2665 (December 2007).

§707. Eligibility

A. Any taxpayer who employs an eligible apprentice duly indentured and registered under the approved Standards of Apprenticeship terms of a state apprenticeship program or a person who is enrolled in a training program accredited by the National Center for Construction Education and Research which has no less than four levels of training and no less than 500 hours of instruction is entitled to a non-refundable apprentice tax credit against any Louisiana individual or corporation income tax or corporation franchise tax each tax year equal to \$1 for each hour of employment of each eligible apprentice, not to exceed 1,000 hours for each eligible apprentice provided such apprenticeships meet the following requirements.

1. A pre-apprentice shall not be considered to be an eligible apprentice, and a pre-apprentice is therefore not eligible for tax credits under this regulation.

2. For state apprenticeship training programs and for purposes of this tax credit only, the tax credit shall be limited to programs which are not less than 4,000 hours (2 years) of on the job training nor more than 10,000 hours (5 years) of on the job training according to the approved Standards of Apprenticeship.

3. Existing procedures and policies for the awarding of advanced status to apprentices for previous training or work experience will remain in effect. Time awarded in recognition of satisfactory completion of previous training or work experience shall not be eligible for a tax credit.

4. In accordance with Louisiana apprenticeship law, rule and policy, a finding that a state apprenticeship program is not in compliance with its approved standards of apprenticeship shall be sufficient cause for revocation of tax credit eligibility. Such revocation shall be applied regardless if the program sponsor is an employer, an association of employers, or an organization of employees for a period of one year or until such program has established compliance with said standards.

5. For NCCER apprentices, the state Department of Revenue shall determine, through rules, the enrollment and

transcript data required from the National Center for Construction Education and Research for students enrolled in one of its accredited training programs which is sufficient for the department to determine the employer's eligibility for, and the amount of the credit, authorized by Public Act 472.

6. In order to be eligible for the tax credit, an NCCER apprentice enrolled in a training program accredited by the National Center for Construction Education and Research must have successfully completed no less than two levels of training and no less than 250 hours of instruction. Employers requesting the tax credit shall receive such tax credit only after such eligibility has been met and confirmed. The tax credit shall only apply to hours completed after the initial requirement has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2665 (December 2007).

§709. Method of Computation

A. Computing Tax Credit. To compute the tax credit allowable to an employer that has an approved state apprenticeship program, the following procedure is to be followed.

1. First, identify the calendar months during the current tax period claimed in which each eligible apprentice was employed.

2. Second, add the number of hours worked by the eligible apprentice in each calendar month in which an eligible apprentice was employed.

3. Third, add the number of eligible monthly hours within the tax period claimed.

4. Finally, multiply the result reached in the step above by \$1 to arrive at the total tax credit for the tax period, not to exceed \$1,000 for each eligible apprentice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2665 (December 2007).

§711. Method of Reporting

A. The department shall provide to the state Department of Revenue an annual list of businesses which participate in state apprenticeship programs as well as the number of eligible apprentices that each employer has employed for the year.

1. For purposes of this tax credit, a state apprenticeship program in good standing shall provide to the department a list of active apprentices for each year. The state Director of Apprenticeship shall verify the registration of apprentices and shall then forward such information to the state Department of Revenue

B. The state Department of Revenue shall make a final determination on all requests for the apprenticeship tax credit.

C. All records pertaining to the apprenticeship tax credit shall be retained by the employer requesting the tax credit for a period not less than five calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2665 (December 2007).

§713. Limitations

A. The tax credit shall be allowed against income tax or corporate franchise tax for the taxable period in which the credit is earned. If the tax credit exceeds the amount of such taxes due, then any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed 10 years.

1. The credit for taxes paid by or on behalf of a corporation shall be applied against Louisiana corporate income and corporation franchise taxes of such corporation.

2. The credit for taxes paid by an individual shall be applied against Louisiana personal income taxes.

3. The credit for taxes paid by or on behalf of a corporation classified under Subchapter S of the Internal Revenue Code of 1954, as amended, as an S corporation shall be applied first against any Louisiana corporate income and corporation franchise taxes due by such S corporation, and the remainder of any such credit shall be allocated to the shareholder or shareholders of such S corporation in accordance with their respective interests and applied against the Louisiana income tax of such shareholder or shareholders of the S corporation.

4. The credit for taxes paid by or on behalf of a partnership shall be allocated to the partners according to their distributive shares of partnership gross income and applied against any Louisiana income tax and corporation franchise tax liability of such partners.

5. The character of the credit for taxes paid by or on behalf of a partnership or S corporation and allocated to the partners or shareholders, respectively, of such partnership or S corporation, shall be determined as if such credit were incurred by such partners or shareholders, as the case may be in the same manner as incurred by the partnership or S corporation, as the case may be.

6. The credit for taxes paid by an estate or trust shall be applied against the Louisiana income tax imposed on estates and trusts.

B. The apprenticeship tax credit shall have an effective period beginning January 1, 2008, and shall not extend beyond December 31, 2011. All requests for the tax credit for hours worked by eligible apprentices and NCCER apprentices outside of this period shall be invalid and denied.

C. Nothing in this Chapter or in any apprentice agreement approved under this Chapter shall operate to invalidate any apprenticeship provision in any collective agreement between employers and employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workforce Development, Apprenticeship Division, LR 33:2666 (December 2007).

John Warner Smith
Secretary

0712#109

RULE

**Department of Public Safety and Corrections
State Uniform Construction Code Council**

State Uniform Construction Code
(LAC 55:VI.707 and 1301-1307)

In accordance with the provisions of Act 12 of the 2005 First Extraordinary Session, R.S. 40:1730:22(C) and (D), R.S. 40:1730.34(B), R.S. 40:1730.37 and R.S. 40:1730.38 relative to the authority of the Louisiana State Uniform Construction Code Council to promulgate and enforce rules, the Louisiana State Uniform Construction Code Council hereby has enacted rules under Chapter 7 to provide for continuing education units for those individuals holding certificates of registration and enact rules under Chapter 13 relating to code enforcement violations.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 7. Certificates of Registration

§707. Continuing Education Requirements

A. Prior to annual renewal of the Certificate of Registration as required by this Chapter, all building code enforcement officers and third-party providers, except Louisiana licensed architects or engineers as allowed by R.S. 40:1730.24(B), shall be registered with the International Code Council and obtain the continuing education units required for that registry.

B. Building code enforcement officers holding provisional certificates of registration and prior to certification and registration with the International Code Council shall provide evidence of one continuing education unit relating to construction code enforcement for the preceding year.

C. Prior to annual renewal of the certificate of registration, Louisiana licensed architects and engineers exempted by R.S. 40:1730.24(B) shall provide evidence of one continuing education unit in construction code enforcement relating to Act 12 and which is acceptable to their respective organizations, for the preceding year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.38

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2666 (December 2007).

Chapter 13. Code Enforcement Violations

§1301. General

A. If the council has reason to believe that a person or authority having jurisdiction is violating or intends to violate a provision of this Part, it may order the person or authority having jurisdiction immediately to refrain from the conduct or to immediately start performing some specific act. The council may apply to the district court of the parish for an injunction restraining the person or authority having jurisdiction from the conduct or for a mandamus to compel the performance of a duty. The court may issue a temporary injunction ex parte not to exceed 10 days and upon notice a

full hearing may issue other orders in the matter it considers proper. No bond is required of the council by the court as a condition to the issuance of an injunction or other order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.37

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2666 (December 2007).

§1303. Informal Proceedings

A. If the council receives written information indicating that a person or authority having jurisdiction is violating or has violated any provision of R.S. 40:1730.21 et seq., or this Part, the council, after an investigation, may, in writing, order the person or authority having jurisdiction to immediately refrain from the conduct or violation or to immediately start performing some specific act.

B. Response. The person or authority having jurisdiction shall respond in writing to the council's informal notice within 10 days of receipt by providing the council with a written statement containing any information related to the allegations of the informal notice which would show compliance with state law or this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2667 (December 2007).

§1305. Investigation Procedures

A. In investigating a complaint, the following measures shall be observed by the council.

1. Complainant must file a written complaint with the council. The complaint shall be made on the form provided by the council.

2. The completed complaint form shall be mailed, faxed or hand delivered to the council administrator.

3. Once the complaint is filed with the council administrator, a file on the matter shall be opened and maintained by the administrator. A separate complaint file shall be kept on each complaint.

4. The council administrator shall oversee the investigation. The investigation may be conducted by the council administrator or his designee.

5. Upon completion of the investigation, the council administrator shall prepare a report to the council's Code Enforcement Advisory Committee.

6. The Code Enforcement Advisory Committee shall review the file and make a determination as to a course of action.

7. Once the Code Enforcement Advisory Committee makes their determination then they send their recommendation to the council to be heard at the earliest available council meeting.

8. The council shall consider the Code Enforcement Advisory Committee's recommendation then vote on a course of action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2667 (December 2007).

§1307. Judicial Proceedings

A. Injunction or Mandamus. In the event that the matter is not resolved during the informal proceedings, the council

may file a petition for injunction or seek a writ of mandamus with the district court having jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and R.S. 40:1730.37.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:2667 (December 2007).

Jill Boudreaux
Acting Undersecretary

0712#002

RULE

Department of Revenue Policy Services Division and Department of Social Services Office of the Secretary

School Readiness Tax Credits
(LAC 61:I.1903)

In accordance with R.S. 36:474, R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103, which allow the departments to make reasonable rules and regulations, the Secretary of the Department of Revenue and the Secretary of the Department of Social Services adopts 61:I.1903 relative to the administration of the school readiness tax credits.

The purpose of this regulation is to explain the procedure that will be employed for the administration of the school readiness tax credits and the documentation that will be required to claim one of the school readiness tax credits as set out in R.S. 47:6101 through 6109 as enacted by Act 394 of the 2007 Regular Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1903. Administration of the School Readiness Tax Credits

A. General School Readiness Tax Credit Provisions

1. For purposes of the tax credits in R.S. 47:6101 through 6109, a child will be deemed to be five years of age or less if the child is five years of age or less on any day of the taxable year for which a credit is claimed.

2. The term "business" as used in this regulation means any for-profit or not-for-profit entity not including any individual operating in their personal capacity.

3. The credits provided for in R.S. 47:6101 through 6109 are applicable against individual income tax and corporation income and franchise tax but not against income taxes imposed on estates and trusts.

B. Child Care Expense Tax Credit

1. The Department of Revenue shall make available to qualifying child care facilities a credit certificate to be given to each taxpayer claiming the child care expense tax credit. The credit certificate will consist of a provider portion of the certificate and a taxpayer portion of the certificate.

2. The provider shall complete the provider portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the facility during the calendar

year no later than January 31 of the succeeding year. The provider portion of the credit certificate will include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Louisiana tax identification number, the child care facility Department of Social Services license number, the name of the child attending the facility and the issue date and effective year. The provider shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

3. The taxpayer shall complete the taxpayer portion of the certificate which will include, but not be limited to, the following information: the name and social security number of the taxpayer claiming the credit and the name, social security number and date of birth for the qualifying child for whom this credit is claimed on the tax return. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine the child care provider's quality rating.

C. Child Care Provider Tax Credit

1. The average monthly number of children as used in R.S. 47:6105 is to be determined on a calendar year basis and the provider shall claim the credit for the tax year that includes December 31. The child care provider tax credit will be calculated based on the average monthly number of children participating full-time in the Child Care Assistance or Foster Care Program, from January to December of a calendar year, as follows:

a. full-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 12 days of service per child during the month; or

b. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 40 hours of service per child during the month; or

c. part-time participation is considered when the Child Care Assistance or Foster Care Program pays for at least 5 days but no more than 11 days of service per child during the month;

d. two part-time participants are considered one full-time participant for purposes of this calculation.

2. The Department of Social Services shall provide documentation to each qualifying provider of the average monthly number of children participating in the Child Care Assistance Program or in the Foster Care Program. If the provider has multiple sites, the Department of Social Services shall provide this information for each site. The certificate shall be delivered or mailed to all qualifying child care providers by March 1 of the year following the year the credit is earned. The certificate shall include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Department of Social Services license number and the issue date and effective year.

3. Child care providers that operate as a corporation or sole proprietorship shall submit or maintain the credit certificate as required by the Secretary of the Department of Revenue in forms and instructions.

4. For child care providers that operate as flow through entities such as partnerships, LLCs electing partnership treatment, or S corporations passing credits

through to shareholders, every partner, member, or shareholder claiming the credit must submit or maintain copies of the information issued by the Department of Social Services for each site. Every partner, member, or shareholder claiming the credit must submit or maintain a schedule showing how the total credit is allocated to each partner, member or shareholder.

5. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the provider's quality rating.

D. Credit for Child Care Directors and Staff

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. In order to claim this credit, the Department of Social Services, or their representative, must provide child care facility directors and staff members with a certificate no later than January 31 that states which level of qualification the employee meets according to the criteria established by the Department of Social Services. The taxpayer must submit or maintain the certificate as required by the Secretary of the Department of Revenue in forms and instructions.

3. Each child care facility director and staff member will also have to verify that he/she has worked at the same child care facility for at least six months in the calendar year, unless otherwise approved by the Department of Social Services.

4. Child care director and staff levels will have such meaning as provided by regulation issued by the Department of Social Services.

E. Business-Supported Child Care Credits

1. Business Child Care Expense Credit

a. In order for a business to claim this credit, the business must provide the Department of Revenue the following information: the name and Louisiana revenue tax identification number of the child care facility to or for whom the eligible expenses were paid or made, the amount and nature of qualifying expenses at each child care facility as defined in R.S. 47:6102 and the child care facility's quality rating.

b. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the facility's quality rating.

2. Payments and Donations to Child Care Resource and Referral Agencies

a. In order for a business to claim this portion of the business child care expense credit, the taxpayer must provide the Department of Revenue a receipt from the child care resource or referral agency for the amount of money the taxpayer paid and/or donated during the taxable year.

b. If the child care resource or referral agency is part of a larger charitable organization, only fees and/or donations made to the child care resource or referral agency division of that organization will qualify for this credit. For

example, if Volunteers of America has a division that functions as a child care resource or referral agency, only fees and donations made to the division of that organization would qualify for the credit while all other donations to Volunteers of America would not.

c. The Department of Social Services shall provide to the Department of Revenue a list of qualifying child care resource or referral agencies for each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474 , R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Department of Revenue and the Department of Social Services, LR 33:2667 (December 2007).

Cynthia Bridges
 Secretary, Department of Revenue
 and
 Ann S. Williamson
 Secretary, Department of Social Services

0712#039

Rule
Department of Social Services
Office of the Secretary
Bureau of Residential Licensing
and
Office of Family Support

Licensing
 (LAC 67.I. Chapters 11-19 and III.Chapter 73)

LAC 48.I.Chapters 53, 57, 61, 62, 71, and 79 have been moved to LAC 67.I and III and renumbered as follows.

Previous Placement	Current Placement
Title 48	Title 67
Part I	Part I
Chapter 57	Chapter 11
Chapter 61	Chapter 13
Chapter 62	Chapter 15
Chapter 71	Chapter 17
Chapter 79	Chapter 19
	Part III
Chapter 53	Chapter 73

Title 67
SOCIAL SERVICES
Part I. Office of the Secretary
Subpart 2. Residential Licensing
Chapter 11. Emergency Shelter
§1101. General

A. A child caring agency offering emergency shelter care is a person group or organization operating one or more facilities established for the purpose of providing 24 hour emergency shelter care on a regular basis to children under age 18. Facilities caring for five or more children must be licensed but licensure is optional when emergency shelter care is to be provided to fewer than five children. The standards do not apply to state approved foster homes or to foster homes developed by licensed child placing agencies.

B. For the purpose of these standards the word child caring agency shall mean child caring agency offering emergency shelter care.

C. There is an annual fee for the license as determined by the Division of Licensing and Certification based on capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources Office of the Secretary Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007).

§1103. Organization and Administration

A. Purpose

1. The child caring agency shall have a written statement adopted by the governing body specifying objectives, purposes, agency function, and services offered. When the agency operates under a charter or articles of incorporation all of its purposes shall be stated therein.

2. An unincorporated agency whether a sole proprietorship or partnership shall state clearly its purposes, objectives, functions and services in a written plan of operation.

a. Compliance requirement Submission of the written documents such as charter and/or bylaws.

3. Evidence must be shown by the agency that services and programs as stated in the operational plan are being implemented.

a. Compliance requirement: Agency's records must document the services and programs provided to individual children.

4. When an agency adds a new function or service to its program, its governing body shall adopt a supplementary statement of such function.

a. Compliance requirement: Presentation in writing to the licensing body within 90 days of implementation of the new services, programs, etc.

B. Governing Body

1. All corporations shall have a governing body which is responsible for and has authority over the policies and activities of the child caring agency. If incorporated in Louisiana, the governing body shall consist of a minimum of nine members, the majority of whom must be Louisiana residents. If not incorporated in Louisiana, there shall be a local advisory board of seven members, the majority of whom are Louisiana residents.

2. The governing or local advisory board shall consist of one of the following:

a. a board of local citizens elected or appointed for the purpose;

b. a board or committee comprised of members of a religious or charitable organization such as a church, lodge, veterans organization, etc.;

c. a public authority.

3. In case of a partnership or sole proprietorship, there shall be a local advisory board of at least seven members, the majority of which are Louisiana residents.

a. Compliance requirements: Corporations will provide the licensing authority with the names, addresses, telephone numbers and titles of the members of the governing body and/or local advisory board; partnerships and sole proprietorships shall provide the names and addresses and telephone numbers of each of the owners and the names, addresses and telephone numbers of the local advisory board.

4. The governing body shall be responsible for the program and standard of services of the agency.

a. Compliance requirement: The governing body shall review and approve all policies of the agency. The approval will be recorded in the official minutes of the governing body or written statement or summary of the minutes.

5. The governing body of an incorporated agency shall identify in writing who has the power to appoint and dismiss the executive of the agency as well as the duties and responsibilities of the director.

a. Compliance requirement: Written documentation of the above.

6. The governing body shall determine who has the authority to employ and dismiss personnel.

a. Compliance requirement: Written documentation.

7. Any policies and/or administrative decisions of the governing body which would change the purpose of the agency will be made known to the licensing agency before implementation.

a. Compliance requirement: Written notification to the licensing authority at least 30 days prior to the proposed date of implementation.

8. The governing body and/or local advisory board shall meet as often as necessary but no less than twice a year to insure the proper operation of the agency and care provided to children. Minutes shall be made of each meeting of the governing body or local advisory board and shall be kept on file. The minutes of an incorporated body shall be signed by an officer of the board.

a. Compliance requirement: Applicable minutes or summary of minutes shall be on file for review.

9. The governing body shall complete a written annual evaluation of the administrator.

a. Compliance requirement: Written statement by the governing body and appropriate members certifying that the evaluation has been prepared.

C. Resources

1. The governing body shall be responsible for the funding of the program and shall prepare a financial statement and/or audit including the annual operational and capital budgets.

2. A new agency seeking licensure shall prepare an annual budget for its fiscal year and shall indicate all sources of income and expenditure.

a. Compliance requirement: Presentation of either an annual financial statement, audit or budget to the licensing authority.

3. A facility dependent on contributions from parents of its children or other outside funding for the care of individual children shall have funds to operate for 30 days should all funding processes cease. An agency's funding should be sufficient to prevent the children from feeling their security or placement is in jeopardy.

a. Compliance requirement: Documentation of the funds on hand or sources of credit available to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2669 (December 2007).

§1105. Personnel

A. Personnel Qualifications. All employees shall present a written statement from a licensed physician which documents the individual is free from communicable disease.

1. Administrator

a. Every newly appointed administrator shall have a bachelor's degree from an accredited college or university and a minimum of four years experience in a social agency offering direct services to children. One year of administrative experience in social services may be substituted for two years of regular experience. A master's degree plus two years of social service experience may be substituted for the four years of experience. An alternative may be a bachelor of social work (BSW) degree or professional equivalent with three years experience working with children, one year of which may be experience in administration.

2. Social Work Staff

a. The social worker providing services to the child, whether a staff person employed by the child caring agency or an employee of the child placing agency, shall have a minimum of a bachelor's degree in a behavioral science. Bachelor's degree social work staff shall be supervised by an individual with a master of social work (MSW) degree or have consultation on a regular basis from a board certified social worker (BCSW). A facility with 20 or more children shall have a person with at least a bachelor's degree on the staff to supervise the social service program. Emergency care facilities licensed to exclusively care for children under the age of two are exempt from employing a social worker.

b. The social worker shall have minimum of a bachelor's degree in a behavioral science. Bachelor's degree social work staff shall be supervised by an individual with a master of social work (MSW) degree or have consultation on a regular basis from a board certified social worker (BCSW). A facility with 30 or more children shall have a person with a master of social work degree on the staff to supervise the social service program.

3. Direct Child Care Staff

a. Direct child care staff shall be at least 18 years of age, have a high school diploma or equivalency, or in lieu of a diploma, experience supervising children's activities other than in one's own home may be substituted.

b. Compliance requirement: The qualifications of all the above staff shall be documented in their personnel records. This shall include a brief summary of the personal interviews and at least three written references attesting to character and previous employment. References shall not be obtained from relatives of the prospective employee. A written statement by the administrator verifying compliance with these requirements is acceptable.

4. Volunteers

a. Volunteers who assume direct child care responsibilities shall be carefully screened by the agency.

b. Compliance requirement: Letters of personal reference attesting to the individual's character and reputation in the community shall be on file.

B. Personnel Responsibilities

1. Administrator

a. The administrator shall be responsible for implementing and complying with the following: Policies adopted by the governing body; the ongoing operations of

the agency; and all federal and state laws and regulations pertaining to the operation of the agency.

b. The administrator's specific or delegated responsibilities shall include:

- i. directing the agency program;
- ii. representing the agency in the community;
- iii. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility(ies) during the administrator's absence;
- iv. recruiting qualified staff and employing, supervising, evaluating, training and terminating employment of staff;
- v. providing leadership and carrying authority in relation to all departments of the agency;
- vi. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of children, making needed policy revision recommendations and assisting them in periodic evaluation of the agency's services;
- vii. preparing the annual budget for the governing body's consideration, keeping the body informed of financial needs, and operating within the established budget;
- viii. supervising the facility's management including building, maintenance and purchasing;
- ix. participating with the governing body in interpreting the agency's need for financial support;
- x. establishing effective communication between staff and children and providing for their input into program planning and operating procedures;

xi. Compliance requirement: A written job description for the position of administrator shall be adopted by the governing body that will include the above responsibilities and shall be available to the licensing authority. An organization chart which specifies lines of authority within the agency structure shall be on file.

2. Social Worker (when applicable)

a. The social worker shall be responsible for planning the most effective use of available resources toward meeting the prescribed treatment goals for each child in the facility. Emphasis in emergency shelter care shall be on crisis intervention, handling separation anxiety and alleviating immediate stress.

b. Compliance requirement: A written job description for the position of social worker shall include the above responsibilities and shall be available to the licensing authority. Case records shall be available for review.

3. Direct Child Care Staff

a. The direct child care staff is responsible for the daily care and supervision of the child in the living group to which the child care worker is assigned. He/she must assume many of the daily child caring responsibilities that parents usually perform. Such responsibilities will take precedence over any other duties. Included in the specific job responsibilities are:

- i. handling separation anxiety and alleviating the stress of a child in crisis;
- ii. training the child in good habits of personal care, hygiene, eating and social skills;

- iii. protecting the child from harm;
- iv. handling routine problems arising within the living group;
- v. representing adult authority to the children in the living group and exercising this authority in a mature, firm, compassionate manner;
- vi. enabling the child to meet his/her daily assignments;
- vii. participating in all staff conferences regarding the child's progress in program evaluation of treatment goals and future planning;
- viii. participating in the planning of the facilities program and scheduling such program into the operation of the living group under his/ her supervision;
- ix. maintaining prescribed logs of all important events that occur during his/her tour of duty; significant information about the performance and development of each child in the group;
- x. Compliance requirement: A written job description for the position of child care staff which includes the above responsibilities shall be available to the licensing authority; logs maintained by child care staff shall be available to the licensing authority.

C. Personnel Training

1. The agency shall provide orientation for all new social work and child care staff. The orientation shall provide training which relates to the specific job function for which the employee was hired as well as relating to the needs of children.

a. Compliance requirement: A written orientation plan.

2. At least 15 hours of in-service training shall be provided annually for the social work and child care staff. The content of training shall include, but is not limited to handling separation anxiety, dealing with a child in crisis, helping staff understand the individual needs of children, child growth and development and state licensing standards.

a. Compliance requirement: In-service training provided for social work and child care staff be documented in writing and the name of the person who conducted the training. The licensing authority representative may also document in-service training by direct observation of the training session.

3. First aid training is mandatory for all new child care staff and shall be updated at least every three years.

a. Compliance requirement: All child care staff shall have a written statement documenting first aid training received or in progress. Training shall be provided by a Red Cross instructor or a licensed health professional.

D. Personnel Staffing Standards

1. The child care agency shall provide staff necessary to insure the proper care, treatment, and safety of the residents.

2. An overall staffing pattern must be developed to insure that there will be at least one direct child care staff person on duty in a general area of the facility where children are present.

3. Child care staff required to supervise children during working hours shall not be less than is represented in the following ratio:

Age of Child	Staff-Child Ratio
0-6 years	1 to 6 (waking hours)
6-11 years	1 to 8 (waking hours)
12 years & older	1 to 10 (waking hours)

4. Child care staff required to supervise children during sleeping hours shall not be less than is represented by the following ratio:

Age of Child	Staff-Child Number on Duty	Number on Call	
Ratio	(Awake)	(On premises asleep)	
0-6 years	2 to 12	1	1
6-11 years	2 to 20	1	1
3 to 40	1	2	
4 to 60	2	2	
5 to 80	2	3	
12 years 4 older	1 to 12	1	0
2 to 40	1	1	
3 to 60	1	2	
4 to 80	2	2	

a. Compliance requirements for Paragraphs 1-4: Current personnel roster, staff schedules and resident rosters on file in the office of the agency.

5. There shall be a licensed registered nurse or a licensed practical nurse employed at least eight hours during the day, if six or more children under two years of age are under care in the facility. The nurse will be responsible for carrying out the health program as outlined by the administration and attend to the health needs of the children.

6. There shall be a licensed registered nurse or licensed practical nurse on call during the night hours if six or more children under two years of age are under care in the facility.

7. There shall be sufficient domestic and maintenance workers that those employed to give direct care to children shall not have their duties interfered with by other responsibilities to the extent that they are unable to give adequate supervision to children in their care.

8. Staff below the age of 18 years may be hired to augment the regular child care staff.

a. Compliance requirement for Paragraphs 5-8: Personnel contracts or documented evidence of contract arrangement on file in the office of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2670 (December 2007).

§1107. Admission, Intake and Acceptance of Children

A. Children are considered candidates for emergency shelter care when they are in danger of abuse or severe neglect or when they are abandoned either purposely or by events beyond the control of their caretaker.

B. Intake Process

1. The intake study shall include all available identifying information on the child. The placing agency shall provide this information within 24 hours or the next working day, whichever is less.

a. Compliance requirements: Documentation in the records of the following:

- i. name of child;
- ii. name of parents or guardian;
- iii. legal authorization for placement;
- iv. caseworkers name;
- v. reason for referral;
- vi. school and grade if appropriate;
- vii. physical problems, if any;
- viii. medication, if prescribed;
- ix. names of authorized visitors.

2. At the time of placement or within 48 hours, there shall be a written placement agreement between the agency, the child and/or the child's parents or placement agency which provides for:

- a. Written authorization for the facility to care for the child according to agency's written child care policies;
- b. Written authorization for the facility to obtain medical care for the child;
- c. Written financial agreement when a charge is made for the care of the child;
- d. Written rules regarding visits, mail, gifts and telephone calls.

e. Compliance Requirement: A copy of this agreement shall be in the child's record.

3. The facility shall have a written plan for orientation of children. a. Compliance Requirement: Written documentation of the above.

C. Limitations on acceptance

1. A facility shall accept only those children who meet the conditions outlined in the facility's admission policies and for whom the facility has an operational program.

a. Compliance requirement: The conditions of the admission policies and the appropriateness of the operational program for the child shall be observed.

2. A facility shall accept a child for care only from his parents, a court, person or agency holding court custody. If persons legally responsible for the child cannot be located, the facility shall ask the appropriate court for temporary custody. A child cannot be accepted from one parent alone where there is joint custody and the other parent is available.

a. Compliance requirement: This requirement shall be documented by a birth certificate, court order, and/or written statement from a single parent in the child's record.

3. No child shall be denied admission to a facility based on race or national origin.

a. Compliance requirement: The facility shall have on file a written statement to this affect.

4. An agency shall not accept more children than the maximum specified on the license unless prior approval has been obtained from the licensing authority.

a. Compliance requirement: If additional room or other changes warrant an increase in the number of children for which a facility is licensed, the licensee shall apply to the licensing authority for an increase in the number of children prior to accepting additional children.

5. The agency shall not keep a child in care unless the child has had a medical examination including a test for tuberculosis at admission or within 72 hours after admission.

6. If there is a suspicion of child abuse when a child is placed in emergency shelter care, the local child protection agency shall be notified.

a. Compliance requirement for Paragraphs 5-6: Documentation shall be in the child's case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2672 (December 2007).

§1109. Child Care, Development and Training

A. Individual Service Plan

1. A service plan which specifies the child's particular physical, emotional and educational needs and the way these needs will be met while in the emergency shelter shall be documented in the child's case record within 72 hours. When a child placing agency is involved, development of the service plan shall be a joint responsibility.

a. The service plan shall include the objective to be attained through emergency shelter placement and the anticipated length of stay.

b. The service plan shall include specific instructions for treatment and shall be shared with all staff involved in the service plan.

c. A written appraisal of the child's educational and vocational needs shall be a part of the service plan.

d. Compliance requirement: A written service plan on file.

2. When appropriate, procedures shall be established which give the child, parents or legal guardians the opportunity for participation in the formulation of the service plan.

a. Compliance requirement: These procedures shall be stated in writing and made available to parents or legal guardians.

3. When a child's service plan indicates the need for professional consultation or treatment, the agency shall be responsible for obtaining those specified services.

a. Compliance requirement:

i. When professional services are obtained, documentation shall be included in the child's case record.

ii. A schedule indicating when needed services not yet provided are planned to be provided shall be included in the child's case record.

B. Daily aspects of care

1. The daily schedule shall be developed in relation to the needs of the children.

a. Compliance requirement:

i. The agency's written general child care policies shall reflect how a child's daily schedule is developed to meet his or her needs.

ii. A copy of the daily schedule shall be available for school, non-school and vacation periods.

2. Children shall be given training in good habits of personal care, hygiene and grooming. They shall be supplied with personal care, hygiene, and grooming items and supplies.

a. Compliance requirement: The general child care policies on the child's daily schedule shall reflect how training in personal care is met.

3. The agency shall make available to each child an adequate number of supervised recreational activities.

a. Compliance requirement: Activity schedules shall be available which indicate the inclusiveness of each activity and by whom supervised.

C. Clothing

1. The facility shall see that each child is supplied with his or her own clothing. Each child shall be provided with clothing that is properly fitted, appropriate for the child's age and sex, and comparable to the majority of children's clothing in the community.

D. Health Aspects of Care

1. Responsibility for the health supervision of the facility shall be placed with one physician. The agency shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

a. Compliance requirement:

i. Copies of the policies and procedures shall be available to the licensing authority.

ii. The agency shall ensure access to 24 hour, seven day per week medical coverage by hospitals, physicians and dentists.

iii. The agency shall make known to all staff members the policies and procedures to be followed in an emergency.

2. Immunization shall be given according to recommendations of a physician or the schedule established by the Office of Preventive and Public Health Services.

a. Compliance requirement: Current medical and immunization records shall be maintained as follows:

i. A medical consent form signed by a person authorized to give consent.

ii. Record of medical examinations.

iii. Immunization records.

iv. Record of each visit to physician and recommended treatment.

3. Facilities for medical isolation shall be available.

a. Compliance requirement: Space for isolation purposes shall be designated.

4. Medication shall be prescribed only by a licensed physician and administered under his direction.

a. Compliance requirement: Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication.

E. Food and Nutrition

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social and emotional needs of the children in care. The diet shall include a variety of food attractively served. Children shall be encouraged but not forced to eat all food served.

2. Food provided shall be of adequate quality and in sufficient quantity to provide the nutrients for proper growth and development.

a. "Food for Fitness"-A daily food guide, developed by the United States Department of Agriculture shall be used as a basis of meeting nutritional standards. See appendix for Daily Food Guide.

b. Children shall be provided a minimum of three meals daily and snacks.

c. All milk and milk products used for drinking shall be Grade A and pasteurized.

d. There shall be no more than 14 hours between the last meal or snack one day and the first meal the following day.

e. Compliance requirements for Paragraphs 1 and 2: Menus shall be prepared and maintained on file at least one month after used.

F. Money

1. The agency shall provide a plan for all children over five years of age to have money for personal use.

a. Compliance requirements: Documentary evidence that each child in care for over seven days has received money from some source.

2. Money received by a child shall be his own personal property and shall be accounted for separately from the agency's funds. When indicated in the treatment plan, a child may be required to use his or her earned money to pay for room and board. Donations accepted for a child shall be used in accordance with the donor's expressed intent.

a. Compliance requirement: The agency shall document the procedure for handling children's money.

3. The child shall be encouraged to learn how to manage money.

a. Compliance requirement: The policy for handling children's money shall include specific ways and procedures for children to obtain, safeguard, save, invest, withdraw, and spend their money.

G. Community Relationships

1. When the child shows sufficient self-control and emotional stability, the child caring agency shall encourage and arrange for him to participate in community activities such as: school, recreational or cultural functions, and visits with parents, relatives and friends.

2. Whenever appropriate the agency shall make possible and encourage visits by interested individuals or groups and theft participation in on-campus activities.

a. Compliance requirement: The agency shall document its plan for encouraging children to participate in community life.

3. Children shall be permitted the opportunity to attend off-campus religious services of their choice.

a. Compliance Requirement: There shall be a written policy statement regarding the religious program available or absence of one.

H. Education, Work and Training

1. The agency shall assume the responsibility for arranging an educational plan appropriate for each child.

2. The agency shall use off-campus education facilities for those students who are able to participate in an off-campus school setting.

3. For children unable to attend regular classes, the agency shall use community education resources or its own resources or some combination of these resources to help the child develop and become self-sufficient to the extent of their capacity.

4. The agency not having State Department of Education accreditation or an approved school program or access to such shall make this information clear in its policies, brochures and information given to all applicants.

5. If the child caring agency does have a school program accredited or approved by the State Department of Education, documentation of this accreditation or approval shall be on file at the agency.

a. Compliance requirement for Paragraphs 1-5: The child caring agency shall outline in writing the provisions made for these needs.

6. The child caring agency shall differentiate between tasks of daily living which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed in or out of the facility to gain vocational training.

a. Compliance requirement:

i. the task of daily living which children are expected to perform as part of living together shall be made known to the child during his or her orientation to the facility. The task of daily living shall not preclude leisure time and recreational activities;

ii. the agency's rules regarding jobs to earn spending money or gain vocational training shall be made known to all children old enough to have a job;

iii. children in care shall not be used as employees. The work that they perform shall not be work that ordinarily is performed by staff.

I. Discharge

1. The agency shall have written documentation describing discharge policies and procedures.

a. Compliance requirement: The documentation shall be available for review.

2. Children shall not be retained more than 45 days in emergency shelter care. There can be two renewals of thirty days each by written contract between the emergency shelter care facility and the placing party.

a. Compliance Requirement: Written documentation.

3. No child shall be precipitously or arbitrarily discharged from care.

a. Compliance Requirement: The agency shall give due notice of discharge to all appropriate parties such as parents, legal guardian, and the placing agency.

4. If a child has been received under care from a court, the child shall not be discharged to other persons except on the order of the court and after an investigation of home conditions satisfactory to the court, unless the child is being returned to the court for disposition.

a. Compliance requirement: Self-evident

5. The discharge plan for the child shall be recorded in the child's record upon his or her release and a summary of the plan made available to all appropriate parties.

a. Compliance requirement:

i. the circumstances surrounding the discharge shall be documented in the case record;

ii. the name, address and relationship of the person to whom the child is released shall be recorded; and

iii. date of discharge shall be recorded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2673 (December 2007).

§1111. Children's Rights

A. Privacy

1. The staff of the facility shall function in a manner that allows appropriate privacy for each child. The facility's space and furnishings shall be designed and planned to enable the staff to respect the children's right to privacy and at the same time provide adequate supervision according to the ages and developmental needs of the children.

a. Compliance requirement: Each child shall have access to a quiet area where he or she can withdraw from the group when not specifically engaged in structured activities.

2. The child shall not be placed in a position of having to acknowledge his or her dependency, destitution, or neglect.

3. The child shall not be required to make public statements to acknowledge his or her gratitude to the child caring agency.

4. Children shall not be required to perform at public gatherings.

a. Compliance requirement for Paragraphs 2, 3, and 4: The facility shall not require the child to make written or oral statements regarding his or her background or dependency on the facility for care.

5. The facility shall not use reports or pictures or release or cause to be released research data from which children can be identified without written consent from the child and the parents or legal guardians and/or the court having jurisdiction.

a. Compliance requirement: The signed consent form shall be on file at the facility before any reports, pictures, or research data are released from which the child can be identified. The signed consent form shall indicate how any reports or pictures shall be used.

B. Contact with family and collaterals

1. There shall be contacts between the child and parents or legal custodian while the child is in care unless the rights of the parents have been legally terminated or restricted by court order. The frequency of contact shall be determined by the needs of the child and family.

2. Children in care shall be allowed to send and receive uncensored mail and conduct private telephone conversations with family members unless the best interests of the child or a court of competent jurisdiction necessitates restrictions.

3. If it has been determined that the best interests of the child necessitate any restrictions on communications or visits, these restrictions shall be ordered by the court.

4. If limits on communications or visits are indicated for practical reasons, such as expense of travel or telephone calls, such limitations shall be determined with the participation of the child and family.

5. Children shall not be denied the right to contact an attorney, probation officer, social worker, judge or other officer of the court.

6. Compliance requirement for Paragraphs 1-5: The facility shall have clearly stated written policies regarding visits, gifts, mail and telephone calls between the child, family members and appropriate collaterals. Any restrictions as specified in Paragraphs 3, 4 and 5 above shall be documented in the child's record.

C. Participation in Program Development.

1. Children's opinions and recommendations shall be considered in the development and continued evaluation of the program and activities.

a. Compliance requirement: The procedures for this shall be documented in program policy.

D. Disciplinary Safeguards

1. Only specifically authorized staff members shall be allowed to handle discipline.

2. Children shall not be subjected to corporal punishment.

3. Children shall not be subjected to cruel, severe, unusual, degrading or unnecessary punishment.

4. Children shall not be subjected to verbal remarks which belittle or ridicule them, their families or others.

5. Children shall not be denied food, mail or visits with their families as punishment.

6. Any discipline or control shall be individualized to fit the needs of each child.

7. Seclusion, defined as the placement of a child alone in a locked room, shall not be employed.

a. Compliance requirement for Paragraphs 1-7:

i. the facility shall have written policies regarding methods used for control and discipline of children which shall be available to appropriate staff and to the children's parents or legal custodian;

ii. the incidents for which disciplinary measures are taken and the method of discipline used shall be logged by the authorized staff member.

8. Physical holding shall only be employed to protect the individual from physical injury to himself or others. Physical restraints shall not be employed as punishment.

9. Mechanical restraints shall not be used.

a. Compliance requirement for items 8 and 9: The need for restraint by physical holding and the length of time this type restraint was employed shall be recorded in the child's case record.

E. Clothing and Personal Possessions

1. Each child shall be provided adequate clothing which is appropriate for his or her age group which reflects community standards.

a. Compliance requirement: The facility shall not require clothing or dress which set the child apart from other children in the community.

2. A child shall be allowed to bring appropriate personal possessions to the facility and shall be allowed to acquire possessions of his or her own.

a. Compliance requirement: Prior to admission, information shall be made available to the child and his or her parents or legal guardian concerning what personal possessions may be brought to the facility and the kinds of gifts a child may receive. They shall also be informed about what articles children cannot have or receive while at the facility.

F. Civil Rights

1. Children shall not be segregated or denied participation in overall program activities because of race or national origin.

a. Compliance requirement: The facility shall comply with all appropriate federal and state civil rights laws.

G. Religious Participation

1. Children shall have an opportunity to participate in religious services and functions of their parents' choice.

a. Compliance requirement: The facility shall make available the opportunity to attend religious services but not impose participation against the wishes of the child and/or parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2674 (December 2007).

§1113. Building, Grounds and Equipment

A. Furnishings and Equipment. The furnishings and equipment shall be adequate, sufficient, and substantial for the needs of the age groups in care.

1. Sleeping Rooms

a. All bedrooms shall be on or above street grade level and be outside rooms. Normally, bedrooms shall accommodate no more than four residents. Any deviation from this size shall be justified on the basis of meeting the program needs of the specific individuals being served. Bedrooms must provide at least 60 square feet per person in multiple sleeping rooms, and not less than 80 square feet in single rooms.

b. Each resident shall be provided a separate bed of proper size and height, a clean comfortable mattress and bedding appropriate for weather and climate.

i. Compliance requirement: Children six years of age and older shall be provided with a rigid-frame single bed standard twin mattress and (length 75" x width 38" x height six"). Children ages two to six may be provided with youth beds with rigid frames. Infants up to two years of age shall be provided with standard size cribs.

c. There shall be at least three feet of space between beds or cribs.

d. When possible, there should be individual sleeping rooms for adolescents and for children whose behavior would be upsetting to the group.

e. Appropriate furniture shall be provided, such as a chest of drawers, a table or desk, and an individual closet with clothes racks and shelves accessible to the residents.

f. Individual storage space reserved for the child's exclusive use shall be provided for personal possessions such as clothing, toys, and other items so that they are in easy access to the resident.

i. Compliance requirement: Self-evident by on-site observation.

2. Bath and Toilet Facilities

a. There shall be separate toilet and bath facilities for boys and girls beyond nursery age.

b. There shall be separate toilet facilities for employees.

c. Toilets should be convenient to sleeping rooms and play rooms.

d. Toilets, bathtubs, and showers shall provide for individual privacy unless specifically contraindicated by program needs.

3. Dining Room and Kitchen

a. There shall be a designated space for dining.

b. Dining room tables and chairs shall be adjusted in height to suit the ages of the children.

4. Heat and Ventilation

a. Temperature shall be maintained within reasonable comfort range (65 degrees to 85 degrees).

b. Each habitable room shall have direct outside ventilation by means of windows, louvers, air conditioners, or mechanical ventilation horizontally and vertically.

5. Compliance requirement for Paragraphs 2-4: These requirements shall be self-evident upon on-site observation.

B. Playing Space and Equipment

1. Indoor and outdoor play space: The indoor play space shall be a minimum of 35 square feet per child, separate from and excluding bedrooms, halls, kitchen and any rooms not available to children. The outdoor play space shall be a minimum of 75 square feet per child. This area shall not include parking and must be an area which is reserved primarily for recreational purposes.

a. Compliance requirement: Self-evident upon on-site visit and/or floor plan and site plan.

2. Play equipment: There shall be play equipment sufficient to provide all children in care opportunities for easy access to such equipment.

a. Compliance requirement: An on-site visit must reveal play equipment suitable for all ages of children in care. The following types of equipment are suggested as suitable for each age group and other similar types of play equipment may be substituted according to the needs of each facility.

i. Infants: Rattles, squeeze toys, stuffed toys, teething rings.

ii. Toddlers: Pull toys, blocks, sand pile, sand pails and shovels, wheel toys, climbing steps and boxes, "walking" boards, finger paints, clay, water colors, colored paper, paste, scissors and picture books.

iii. Three to Six years: Large boxes, balls, slides, swings, bars, rope ladder, hammers, shovels, saws, work benches, dump trucks, trains, airplanes, wagons, scooters, tricycles, finger paints, picture books, pegboards, kitchen utensils, dolls, doll houses, "grown-up" clothes, musical instruments, phonograph records.

iv. Six to Twelve years: Football, baseball and basketball equipment, hobby materials,

v. Twelve years: outdoor play equipment, books, games.

vi. Adolescents: Hobby materials, phonograph records, books, football, baseball, and basketball equipment, games.

C. Health and Safety

1. The facility shall comply with all applicable building codes fire and safety laws, ordinances and regulations.

a. Compliance requirements:

i. it is the responsibility of the facility to request the necessary health and fire inspections and to comply with any resulting recommendations noted in the inspection reports;

ii. written documentation that all building codes, fire, health and safety laws, ordinances and regulations are met shall be on file at the facility and copies shall be submitted to the licensing authority on request.

2. No child shall have access to machinery such as power driven lawn mowers, mangles, commercial type power driven washing machines, etc., unless these are provided with approved safety devices.

3. Secure railings shall be provided for flights of more than four steps and for all galleries more than four feet from the ground.

4. Where children under age two are in care, gates shall be provided at the head and foot of each flight of stairs accessible to these children.

5. An outdoor swimming pool shall be enclosed by a six foot high fence. All entrances and exits to pools shall be closed and locked when not in use. Machinery rooms shall be locked to prevent children from entering.

a. Compliance requirement: Paragraphs 2, 3, 4 and 5 above must be self-evident upon on-site visit.

6. A certified individual, 18 years of age or older, shall be on duty when children are swimming in ponds, lakes or pools where a lifeguard is not on duty.

a. Compliance requirement:

i. certification from one of the following shall constitute compliance:

(a). Water Safety Instructors Certificate or Senior Lifesaving Certificate from the Red Cross.

(b). Water Safety Instructor Certificate from the Young Men's Christian Association or the Young Women's Christian Association.

(c). The National Association of Underwater Instructors Certificate.

ii. Certification shall be documented in personnel records.

7. There shall be written plan and procedures for water safety.

a. Compliance requirement: The plan shall be shared with appropriate staff and submitted to the licensing authority upon request.

8. Storage closets or chests containing medicine or poisons shall be securely locked.

9. Garden tools, knives and other dangerous instruments shall be in accessible to small children.

10. Electrical devices shall have appropriate safety controls.

a. Compliance Requirement for Paragraphs 8-10: Must be self-evident upon on-site visit.

D. Maintenance

1. Buildings and grounds shall be kept clean and in good repair.

2. Outdoor areas shall be well drained.

3. Equipment and furniture shall be safely and sturdily constructed and free of hazards to children and staff.

4. The arrangement of furniture in living areas shall not block exit ways.

a. Compliance requirement for Paragraphs 1-4: Must be self-evident upon on-site visit and observation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2676 (December 2007).

§1115. Required Records and Reports

A. Children's Records

1. Accurate and current records shall be maintained for each child in care.

a. Compliance requirement: The record shall contain, as a minimum the following which shall be provided by the placement party:

i. identifying information which includes the child's name, date of birth, place of birth, sex, religion, race, names and addresses of parents, brothers, and sisters, names and addresses and relationships of other responsible persons, date of admission, date of discharge;

ii. intake information as required by Section III, A, 1;

iii. placement agreement between the institution and the child's parents, guardian or agency holding custody as required by Section III, A, 2;

iv. if granted, consent of parents, child, guardian or agency holding custody for use of children's pictures, within licensing requirements;

v. medical records are required by Section IV, D, 2-4;

vi. copy of the child's birth certification (or a document that establishes the child's identity and birth date), if such exists;

vii. a copy of court order if appropriate;

viii. results of neurological, psychological or psychiatric evaluations if the intake study or medical examination indicates a need for such an evaluation;

ix. a copy of the initial service plan and the child's progress in relation to the service plan;

x. record of any specialized testing or treatment obtained;

xi. a copy of any financial agreement with parents and/or placement agency.

2. Case records shall be held confidential and secure.

a. Compliance requirement:

i. Information in case records shall not be disclosed for any purpose other than direct and authorized services to the child or the administration of the facility.

ii. These records shall be on the premises of the facility and shall be available for review by the licensing authority.

3. A monthly statistical record shall be kept by the facility showing the number of children in care, placement and discharge, the children's age, sex, and race.

a. Compliance requirement: This information shall be available for review to the licensing authority upon request.

B. Personnel Records

1. Personnel records shall be maintained on each employee of the facility.

a. Compliance requirement: The records shall contain all pertinent information relative to:

i. qualifications for the position;

ii. initial health card or physician's statement and annually thereafter that employee is free of communicable diseases, including a TB test report;

iii. pre-employment references;

iv. evaluations of performance;

v. date of employment;

vi. date and reason for separation;

vii. forwarding address of separated employees.

C. Emergency Reports and Records

1. Any serious occurrence such as accidents, injury, or arrests, involving a child shall be reported immediately to the parents and/or placement agency and to any other appropriate agencies or individuals.

2. All runaways shall be reported to the parents, guardian or placement agency, and the appropriate local law enforcement agency within 24 hours from the time it has been determined that the child has left the facility without permission.

a. Compliance requirement: The time the incident occurred, the person reporting the incident and the person or

agency to whom the report was made shall be noted in the child's case record.

3. Any disaster or emergency situation which makes the facility unable to comply with any of the licensing standards shall be reported within 24 hours to the licensing authority.

a. Compliance requirement: Self-evident.

D. General Reports

1. The following reports shall be obtained at the time of the initial licensing and annually thereafter:

- a. inspection report from the state fire marshal;
- b. inspection report from the Office of Preventive and Public Health Services.

i. Compliance requirement: Current reports shall be submitted with each application for a license and shall be on file at the facility.

2. The administration of the child caring facility shall submit the following reports to the licensing authority:

- a. any change in administrator;
- b. any change in purpose of or additions or deletions of services;
- c. any change in accreditation by a school program offered by the facility;
- d. any impending change of residence or location; e. any change in name of the facility.

3. The licensing authority shall have the authority to visit and inspect the facility at all reasonable times.

4. The license shall be on display in a conspicuous place at the facility.

a. Compliance requirement: Paragraphs, 2, 3, and 4 above are self-evident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2677 (December 2007).

§1117. Appendix I

A. Daily Food Guide

1. This information provides a detailed interpretation of the nutrition standard of the Minimum Standards for Child-Caring Agencies.

2. It is based on Food for Fitness-A Daily Food Guide prepared by the Agricultural Research Service and published as Leaflet No. 424, U.S. Department of Agriculture, Superintendent of Documents, Washington, D.C.

3. In the daily food guide which follows, foods within each group have similar but identical food value. Each day choose at least the minimum number of servings from each of the broad Food Groups: Meat Group, Bread-Cereal Group, Vegetable-Fruit Group, Milk Group and Other Foods. Servings may differ-small for young children, large (or seconds) for very active adults or teenagers.

B. Meat Group

1. Each day serve four ounces of cooked, lean meat, or a combination of meats and meat alternates having a protein value equal to four ounces of cooked lean meat.

	Pork
	Variety meats: heart, liver,-kidney
Either of these is equal in protein value to one ounce cooked lean meat*	Poultry, example:
	1 small drumstick
	Processed meats, example:
	1 all-meat frankfurter
	Meat Alternates
Any one of these is equal in protein value to one--ounce cooked lean	1 egg
	2 tablespoons peanut butter
	1/2 cup, when cooked, of dried peas, lentils, beans, textured vegetable protein
	1 thin slice cheddar cheese** (1 oz.)
	1/2 cup cottage cheese**

2. The department considers that one ounce of cooked fish is equal in protein value to one ounce of cooked lean meat.

**If cheese is counted as meat, it should not be counted as milk.

C. Bread-Cereal Group

1. Each day provide four or more servings of breads and cereals which are whole grain, enriched or restored.

Amounts	
Count any one of these as one serving	1 slice bread
	1 roll, muffin or biscuit
	5 saltine crackers
	2 graham crackers
	1 tortilla
	1 ounce ready to eat cereal
	1/2 to 3/4 cup cooked oatmeal, cornmeal, grits, rice, macaroni, noodles or spaghetti
	2-3 enriched cookies

D. Vegetable-Fruit Group

1. Each day provide four or more servings of vegetables and fruits including one good source or two fair sources of Vitamin C.

2. At least one serving every other day should be a good source of Vitamin A.

3. The remaining servings each day may be any vegetable or fruit including those valuable for Vitamins C and A.

Amounts	Good Sources of Vitamin C:
Count any one of these as one serving of Vitamin C	1 medium orange
	1/2 grapefruit
	1/2 cup orange juice, grapefruit or blended citrus juices**
	1/2 cantaloupe*
	3/4 cup strawberries
	1/2 cup cooked broccoli* or brussel sprouts*

Amounts	Meats
Four ounces of raw lean meat are to be counted as three ounces of cooked meat	Lean beef
	Veal
	Lamb

Amounts	
	Fair Sources of Vitamin C:
Count any two of these as one serving of Vitamin C	1 medium tomato raw* or 1/2 cup cooked*, or 1/2 cup juice*
	1 tangerine or 1/2 cup tangerine juice
	1/2 cup cauliflower, raw cabbage, cooked rutabaga, turnip greens*, collards* or other leafy greens* 1 medium potato, sweet* or white 1/2 medium green pepper
	Good Sources of Vitamin A:
Count any one of these one serving of Vitamin A	1/2 cup sweet potatoes, carrots, pumpkin, or winter squash
	1/2 cup collards, broccoli, turnip greens or other dark leafy greens
	5 apricot halves
	1/4 medium cantaloupe
	Other Vegetables and Fruits:
Count any one of these as one serving	Other vegetables not listed above
	1 medium apple
	1 banana
	1 peach, etc.
	1/2 cup other fruit or vegetable

4. If the food chosen for Vitamin C is also a good source of Vitamin A, the additional serving of Vitamin A food may be omitted.

5. Fruit juice fortified with Vitamin C may be substituted for fruit juice naturally high in Vitamin C. Fruit flavored drinks shall not be substituted for fruit juice or fruit.

E. Milk Group

1. Each day serve the specified amounts of fresh milk or combinations of fresh milk and milk products having a total calcium value equal to the specified amounts of fresh milk.

Amounts	Milk Products
Any one of these is equal to the calcium value of 1/2 cup fresh milk	1/4 cup undiluted evaporated milk
	2 tablespoons of nonfat dry milk
	1/2 cup custard or milk pudding
	1/2 cup cream soup made with milk
	1/2 cup milk used on cereal
Any one of these is equal to the calcium value of 1/4 cup fresh milk	1/2 cup ice cream
	1 thin slice cheddar cheese (1 oz.)
	1/2 cup cottage cheese

2. If cheese is counted as meat, it should not be counted as milk.

F. Other Foods

1. Serve butter, margarine, fats, oils, sugar, or unenriched refined grain products as needed to complete meals and to provide additional food energy and other food values.

2. Bacon and cream cheese are counted as fats because they contain very little protein. Either one tablespoon of cream cheese or one slice of crisp bacon is equivalent to one teaspoon of margarine or butter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2678 (December 2007).

Chapter 13. Foster Care/Substitute Family Care §1301. Definitions

Client—a person placed in foster home by a placing agency.

Corporal Punishment—punishment inflicted in any manner upon the body.

Foster Home—a family home providing 24-hour care for clients unrelated to adult members of the household by blood, marriage, guardianship or adoption.

Foster Parent(s)—either a single person or a legally married couple approved to provide foster care.

Placing Agency—any organization legally authorized to place clients in foster home.

Related—includes individuals within the following degrees of relationship whether by blood, half-blood, adoption, or marriage: parent, spouse, sibling, grandparent, uncle, aunt, niece, nephew, son, daughter, grandchild, and first cousin. This includes persons of preceding generations denoted by prefixes of "great" and also includes persons whose relationship is denoted by prefixes of "step."

Service Plan—a comprehensive, time-limited, goal-oriented, individualized plan for the care, treatment and education of a client in care of a foster home. The service plan is based on a current comprehensive evaluation of the client's needs.

Substitute Family Care (SFC)—an arrangement wherein both children and adults with specific handicapping conditions are placed in the private homes of persons not related, as defined above, to clients. (Note: Exceptions with regard to relatedness may be made subject to the approval of the appropriate program office). Program administration and specialized professional and support services are provided through agents of the program office of DHHR responsible for providing services to individuals with specified disabilities.

Single Person—a person who is unmarried, separated, divorced, or widowed.

Training—any activity outside the normal routine of the foster home which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2679 (December 2007).

§1303. Qualifications

A. Age

1. Foster parent(s) shall have a birth certificate or other document as evidence that they meet the following age requirements.

a. A foster parent shall be at least 21 years of age.

b. Persons receiving initial approval as foster parent(s) shall be less than 65 years of age.

2. Except with regard to the above age limitations, the age of foster parent(s) shall be considered only as it affects the ability of the foster parent(s) to care for the client(s).

B. Marital Status

1. Foster parent(s) shall be either a single person or a legally married couple.

C. Income

1. Foster parent(s) shall have sufficient income to meet their needs and ensure the security and stability of the household, independent of foster care maintenance payments.

D. Employment

1. A single foster parent or a foster parent couple who both work outside the home shall have a plan for caring for client(s) approved by the placing agency.

2. Foster parent(s) shall obtain approval from the placing agency for a business conducted in the home, demonstrating that the activities related to this business will not interfere with the care of the client(s).

a. A foster home shall not be used as a lodging for transient roomers or as a day care center for non-related children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2679 (December 2007).

§1305. Personal Characteristics

A. General

1. Foster parent(s) shall demonstrate emotional stability, good character, a responsible adult life style, freedom from excessive use of alcohol or use of illegal drugs and the ability to provide appropriate supervision, humane care, reasonable discipline and a home-like environment for the client(s).

a. Foster parent(s) shall demonstrate a capacity for setting realistic expectations for behavior and performance based on age, abilities and disabilities of the client(s).

b. Foster parent(s) shall demonstrate the emotional stability of a healthy adult as evidenced by a willingness to discuss and deal appropriately with their own feelings of anger, frustration, sorrow, conflict and affection and those of others.

B. Criminal Record Check

1. Foster parent(s) and all other members of the household 18 years of age or older shall sign a release for a criminal record check and shall be free of convictions, indictment or substantial evidence of involvement in any criminal activity involving violence against a person, serious sexual misconduct, gross irresponsibility or disregard for the safety of others or serious violations of accepted standards or ethical conduct.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the criminal activity is not recent or is not sufficiently serious to warrant disqualification and poses no current or future threat to the health, safety, or well-being of the client(s).

C. References

1. Foster parent(s) shall provide the names, addresses and telephone numbers of five persons who may be contacted by the placing agency as personal references.

a. At least three of the required references shall be persons not related to the foster parent(s) by blood or marriage.

D. Informed Consent of Household

1. Foster parent(s) shall ensure that all members of the household are informed of and agree to the acceptance of the client(s) into the home.

a. Exceptions to the above requirement shall be made, at the discretion of the placing agency, when the household member involved is incapable of communication or informed decision-making and poses no threat to the health, safety or well-being of the client(s).

E. Health.

1. Foster parent(s) shall, as required by the placing agency, provide information on the physical and mental health history of every member of the household.

2. Members of the household must be free of communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

3. Foster parent(s) shall, on request, provide a medical statement from a licensed physician verifying that household members are free of communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the household to provide adequate care for the client(s).

4. Handicapping conditions of foster parent(s) or household members are to be considered only as they affect the ability of the household to care for the client(s).

F. Physical Examination

1. Prior to initial approval of the foster home, a licensed physician shall examine the foster parent(s) and certify that they are free of tuberculosis and other communicable diseases, specific illnesses or disabilities which would either endanger the health of the client(s) or interfere with the capability of the foster parent(s) to care for the client(s).

a. Physical examinations shall be updated every three years. Tuberculosis scans are not required for follow-up examinations.

b. Foster parent(s) shall obtain a physical examination and provide a written report on the findings of this examination whenever required to do so by the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2680 (December 2007).

§1307. Professional Responsibilities

A. Training

1. Foster parent(s) shall complete an initial orientation and training program involving at least six hours of training activities prior to accepting the first foster client.

a. Exceptions to the above requirements may be granted when a client requires emergency placement. In such circumstances, the foster parents shall receive the initial six hours of training within 90 days of the placement of the initial client.

2. Foster parent(s) shall participate in at least 15 hours of approved training and consultation activities each year. These hours may be shared between both persons in a foster

parent couple, but each person must receive at least five hours of training.

a. Exceptions to the above requirement may be granted at the discretion of the placing agency when foster parent(s) are considered sufficiently trained or experienced to provide high-quality foster care.

B. Records

1. Foster parent(s) are responsible for keeping records on the client(s) as required by the placing agency. Each client's record shall contain at least the following information:

a. Client's name, age, religion and, if available, birth date;

b. Names, addresses and telephone numbers of the client's caseworker and other representatives of the placing agency involved in monitoring the placement;

c. Emergency telephone number(s) for obtaining consent for medical treatment;

d. Date on which the client arrives and date the client leaves the home;

e. Records on immunizations and medical treatment;

f. Name, address and phone number of the client's physician;

g. A listing of any serious illnesses or hospitalization;

h. Information regarding serious food or drug allergies and other chronic or handicapping conditions;

i. Dates of family visits;

j. School reports or employment records;

k. Names of relatives with whom contact may be maintained.

2. Foster parent(s) shall maintain records in a confidential manner which ensures that a client's record will not be read by persons not involved in the client's care and treatment. The client's record shall be given to the placing agency when the client leaves the foster home.

C. Capacity

1. Foster parent(s) shall not exceed the following maximum capacities of foster homes.

a. SFC foster parent(s) shall care for a maximum of four clients.

b. All other foster parent(s) shall have no more than eight dependents, including clients and their own children and shall care for a maximum of six clients.

c. Exceptions to the above maximum capacities may be granted at the discretion of the placing agency, when such exceptions will not have an adverse effect on the care of clients already in the home.

2. Foster parent(s) shall not care for more than two children who are under the age of two years, including their own children.

a. Exceptions to the above requirements may be granted at the discretion of the placing agency when such exception is considered to present no risk to the care of clients.

D. Relationship with the Placing Agency

1. Foster parent(s) shall cooperate with the placing agency staff in home surveys and in the ongoing monitoring of the foster home.

a. Foster parent(s) shall provide the placing agency any information reasonably related to compliance with these requirements and shall allow representatives of the placing agency access to any member of the household and into all rooms within the home.

2. Foster parent(s) shall notify the placing agency prior to allowing any person to take up residence in the foster home.

3. Foster parent(s) shall notify the placing agency immediately in any of the following circumstances:

a. A serious injury or illness involving medical treatment of the client;

b. The death of a client;

c. Unauthorized absence of the client from the home;

d. Removal of the client from the home by any person or agency other than the placing agency; or attempts at such removal;

e. Any fire or other emergency requiring evacuation of the home;

f. Any serious altercations involving clients';

g. Any involvement of client(s) with authorities;

h. In no instance shall notification of any of the above circumstances be given later than 12 hours after the occurrence.

4. Foster parent(s) shall inform the placing agency at least four weeks prior to a planned move of the family home.

5. Foster parent(s) shall inform the placing agency as soon as possible in any of the following circumstances:

a. Any serious illness or death in the household;

b. The departure of any member of the household;

c. Any other circumstances or incident seriously affecting clients or client care.

E. Goal-Setting Conference

1. Foster parent(s) will participate in an annual goal-setting conference with the placing agency to evaluate the strengths and weaknesses of the foster home and of the supportive relationships of placing agency representatives with foster parent(s). This conference will result in a brief written plan, provided by the placing agency to all parties to improve services and relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

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§1309. Client Care and Treatment

A. The Care and Treatment Team

1. Foster parent(s) will work cooperatively with placing agency representatives as members of a treatment team responsible for planning, providing and discussing the total care and services provided to each client.

a. Foster parent(s) shall fully disclose all information related to a client's problems or progress to placing agency representatives.

2. Foster parent(s) shall treat any personal information about a client or the client's family in a confidential manner.

B. Support System

1. Foster parent(s) shall have an adequate support system for supervising and providing care for client(s) on an ongoing basis while allowing foster parent(s) opportunities for conducting personal business and for enjoying occasional breaks from the responsibility for caring for client(s).

a. Any person given the responsibility for the client(s) on a regular basis must be identified to and approved by the placing agency.

C. The Client's Family

1. When the client is minor when an adult client's family is available and accepting of contact with the client, foster parent(s) shall maintain a working relationship with the client's family in accordance with the client's service plan and in cooperation with placing agency staff. In such circumstances, the foster parent(s) will participate in planning for and providing visits by the client with his/her biological parents, friends, and other family members.

2. Foster parent(s) shall allow biological parents and other family members to communicate with the client by mail and by telephone in accordance with the client's service plan.

D. Client Care

1. Daily Routine

a. Foster parent(s) shall provide a flexible daily routine for the client(s). This routine shall be similar to the routine of other family home and shall be developed to be appropriate to each client's age and abilities.

i. Opportunities shall be provided for experiencing normal social life in the community, for recreation, for appropriate physical exercise and for intellectual, spiritual and emotional growth.

2. Household Tasks

a. Foster parent(s) shall only expect a client to perform household tasks which are within the client's abilities, are reasonable for the client's age and are similar to those expected of other household members.

b. Foster parent(s) shall as appropriate, teach the client(s) the tasks and skills required for independent life in the community.

3. Food and Nutrition

a. Foster parent(s) shall ensure that each client is provided with three nutritionally balanced meals a day and shall, in accordance with the client's service plan or on the advice of a licensed physician, provide for special dietary needs of a client.

i. The dietary laws of a client's religion shall be observed in the food provided to that client.

4. Clothing

a. Foster parent(s) shall ensure that each client is provided with adequate, well-fitting, clean clothing appropriate to the season and to the client's age, sex, activities and individual needs. Clothing shall be in good repair and shall be reasonably fashionable and in style.

i. A client's clothing shall be of a quality commensurate with that of other household members and shall meet community standards.

ii. A client's clothing shall be his/her own, not shared in common.

iii. A client's clothing shall go with the client at the time of discharge.

iv. Second-hand shoes shall not be provided.

5. Personal Belongings

a. Foster parent(s) shall ensure that each client is provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush and other toiletry items suitable to the client's age and sex.

b. Foster parent(s) shall allow the client(s) to bring, possess and acquire personal belongings subject only to reasonable household rules and the client's service plan.

i. Personal belongings shall be sent with the client when he/she leaves the home.

6. Money

a. Foster parents shall ensure that the client(s) have the opportunity to have spending money in amounts appropriate to their age and abilities, either through a regular allowance, paid work, employment or money paid directly to the client from other sources.

i. A client's money from any source shall be his/her own and may be subject to restrictions only according to his/her service plan.

ii. Clients shall not be required to pay for any mandated foster home service, except according to their service plans.

iii. Clients shall not be required to pay for necessary toiletry items.

b. Foster parent(s) shall, as appropriate to the client's age and abilities make every effort to teach good habits of money management, budgeting and shopping.

7. Hygiene

a. Foster parent(s) shall, through careful daily monitoring, make every effort to teach a client good habits of personal hygiene and grooming appropriate to the client's sex, age and culture.

8. Heritage

a. Foster parent(s) shall recognize, encourage and support the religious beliefs, ethnic heritage and language of a client and his/her family.

b. Foster parent(s) shall allow a client freedom to express his/her feelings about his/her family, past, current status and future.

c. Foster parent(s) shall, whenever possible, arrange transportation for clients to attend religious services or ethnic events in the community.

9. Discipline and Control

a. Foster parent(s) shall provide loving and humane discipline and control for a client as appropriate to the client's age and understanding.

i. Methods of control shall stress praise and encouragement for good behavior, rather than punishments for bad behavior.

b. Foster parent(s) shall not allow the client(s) to be subjected to verbal abuse, derogatory remarks about themselves or their families or threats of removal from the foster home.

c. Foster parents shall not use the following punishments or permit their use by others on clients:

i. any cruel, severe, humiliating or unusual punishment;

ii. corporal punishment;

- iii. denial of adequate nourishment, shelter, clothing or other basic services;
 - iv. denial of family contact when used as a punishment;
 - v. physically strenuous exercise or harsh work;
 - vi. isolation in a locked room or any closet or other enclosed space;
 - vii. isolation in an unlocked room for more than one hour.
- d. Foster parent(s) shall not punish a client for bedwetting or any other action currently beyond the client's control.
- e. Foster parent(s) shall not allow a client to be punished by other clients, by individuals not known to the client or by any person not authorized to care for the client.

10. Exploitation and Client Rights: Foster parent(s) shall ensure that clients are protected from exploitation in any form and are allowed to enjoy the normal rights, freedoms and responsibilities of community life subject only to reasonable household rules, age-appropriate restrictions and restrictions in accordance with the client's service plan.

AUTHORITY NOTE: Promulgated in accordance with A.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2681 (December 2007).

§1311. Medical and Dental

A. Foster parent(s) shall cooperate in planning the medical and dental care and other therapeutic services for the client.

B. Foster parent(s) shall be responsible for arranging transportation for clients to all necessary medical and dental appointments.

C. Foster parent(s) shall arrange or cooperate in arrangements for keeping immunizations current for the clients.

D. Foster parent(s) shall arrange or cooperate in arrangements for an annual physical examination of each client and medical appointments and follow-up appointments as needed.

E. Foster parent(s) shall arrange or cooperate in arrangements for regular dental appointments and follow-up appointments for the client(s). Foster parent(s) shall arrange for semi-annual dental checkups for clients three to six years of age and annual checkups for clients over six years of age.

F. Foster parent(s) shall immediately report to the placing agency any serious changes in the health of the client.

G. Foster parent(s) shall report to the placing agency any corrective or follow-up medical or dental care for the client needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2683 (December 2007).

§1313. Medications

A. Foster parents shall be responsible for ensuring that drugs ordered for the client are available, that such drugs and other medical supplies are safely stored and that the client receives the drugs ordered in accordance with prescription directions.

1. A client shall not be given a prescription drug not prescribed for that client.

2. Dosages of prescription medications shall be changed only by a doctor's order.

3. Foster parent(s) shall exercise good judgment in providing nonprescription medicines only when the client actually needs them and shall use non-prescription medications only in accordance with the directions on the label of the medicine.

4. Any frequent use of non-prescription medicine shall be reported to the placing agency.

5. Foster parent(s) shall make every effort to learn and look for potential negative side-effects of both prescription and non-prescription drugs and shall report any negative side-effect to a physician immediately

6. At the request of the placing agency, foster parent(s) may be required to keep medication log for the client(s) detailing all medications given, the date and time, the name(s) of the client(s) and the signature of the person administering the medication.

B. When a client is placed on any drug prescribed to alter the client's mood or change the client's behavior, the foster parent(s) shall ensure that the placing agency is informed prior to giving the drug to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2683 (December 2007).

§1315. Seizure Log

A. At the request of the placing agency, foster parent(s) shall keep a log of seizure activity including:

- 1. The time of occurrence of the seizure;
- 2. A description of the seizure including duration, intensity and any unusual circumstances which may have precipitated the seizure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2683(December 2007).

§1317. Recreation and Community Activities

A. Foster parent(s) shall provide opportunities for physical exercise and recreational activities for the client(s) as appropriate to their ages and abilities.

B. Foster parent(s) shall encourage and provide opportunities for the client(s) to take part in community services and activities both with the foster family and, when possible, on their own.

1. Clients shall have opportunities for social interactions with persons of the opposite sex.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2683 (December 2007).

§1319. Education, Training and Employment

A. Foster parent(s) shall cooperate in educational planning for the school-age client(s) and shall, when receiving a school-age client, ensure that immediate steps are taken to place the client in an appropriate, approved school program.

1. Clients shall be encouraged to become involved in appropriate extracurricular activities.

B. When a client is involved in a training program, sheltered employment program or employment in the community, foster parent(s) shall assist the client in meeting his/her commitments and responsibilities in accordance with the service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1321. Exterior Environment

A. A foster home shall be reasonably safe, in good repair and comparable in appearance and maintenance to other family homes in the community.

B. The home and the exterior around the home shall be free from objects, materials and conditions which constitute a danger to the clients' served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1323. Play Area

A. A foster home serving children shall have a safe outdoor play area which clients may use either on the property or within a reasonable distance of the property.

B. Any play equipment on the property shall be safe, well-constructed and suitable for the clients served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1325. Kitchen

A. Foster parent(s) shall have the necessary equipment for the safe preparation, storage, serving and cleanup of meals.

B. Foster parent(s) shall maintain all cooking areas and cooking and refrigeration equipment in working and sanitary condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1327. Dining Area

A. A Foster home shall have a comfortable dining area with sufficient furniture to allow all members of the household to eat together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1329. Living Room

A. A foster home shall have living and family room space comfortably furnished and accessible to the client(s) and sufficiently large to accommodate the various activities of the family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1331. Bedrooms

A. Sleeping arrangements in a foster home shall be subject to the prior approval of the placing agency

B. Foster parent(s) shall permit no more than four clients to a bedroom.

C. Foster parent(s) shall provide each client with his/her own bed and each infant with his/her own crib. The bed shall be no shorter than the client's height and no less than 30 inches wide. It shall have a clean, comfortable, non-toxic mattress.

D. Foster parent(s) shall provide bed linens and sufficient blankets and pillows for all clients.

E. Foster parent(s) shall not permit clients over the age of four years to share a bedroom with a person of the opposite sex.

1. Clients under the age of 18 years shall not share bedrooms with adults, except when a client's needs close supervision due to illness or except at the discretion of the placing agency.

D. Foster parent(s) shall provide a chest, dresser or other adequate storage space for a client's clothing and personal belongings in the client's bedroom. A designated space for hanging up clothes shall be provided near the client's sleeping area.

E. Foster parent(s) shall allow some scope in the decoration of sleeping areas for the personal tastes and expressions of the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2684 (December 2007).

§1333. Bathrooms

A. A foster home shall have a minimum of one flush toilet, one wash basin with hot and cold running water, and one bath or shower with hot and cold water.

B. Foster parent(s) shall equip each bathroom with toilet paper, towels, soap, and other items required for personal hygiene.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

§1335. General Safety

A. A foster home shall be well heated and ventilated.

B. Foster parent(s) shall equip windows and doors with screens.

C. Foster parent(s) shall have access to a telephone within a reasonable distance of the home.

D. SFC foster parents shall have a telephone in the home.

E. Foster parent(s) shall ensure the safe storage of drugs, poisons, or other harmful materials.

F. Foster parent(s) shall store firearms and ammunition in areas not normally accessible to clients. More stringent requirements may be imposed, at the discretion of the placing agency, depending on the ages and capabilities of clients in the home.

1. Foster parent(s) shall not purchase firearms for clients, permit clients to use firearms without written authorization from the placing agency.

G. Foster parent(s) shall have household first aid supplies for treating minor cuts, burns and other minor injuries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

§1337. Fire Safety

A. A foster home shall be free from fire hazards.

1. Foster parent(s) shall, at the request of the placing agency, submit their home to inspection by a fire safety expert.

B. A foster home shall be equipped with an operating smoke alarm on each floor used for sleeping.

C. Foster parent(s) shall ensure that each client knows how to evacuate from the home in the event of a fire and shall conduct periodic evaluation drills.

D. Foster parent(s) shall store combustible substances away from sources of heat.

E. A foster home in a mobile home shall have two doors which provide unrestricted exits to the outside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

§1339. Health and Sanitation

A. Foster parent(s) shall keep the home clean and free of hazards to the health and physical well-being of the family.

B. The home shall have a continuous supply of drinking water approved by local health authorities. If the water is not from a city water supply, the foster parent(s) shall have the water tested and approved.

C. Milk served to the client(s) shall either be Grade A and pasteurized or from an approved source.

D. All plumbing in the foster home shall be in working order.

E. A foster home shall have an adequate supply of hot water for bathing and dish washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

§1341. Transportation

A. A foster home shall have a safe means of transportation adequate to meet the needs of the household.

B. Foster parent(s) shall ensure that any vehicle used to transport client(s) is properly maintained, licensed and inspected as required by State law.

1. The driver of any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

2. Any vehicle used to transport client(s) by the foster home shall be properly licensed to operate that vehicle according to state law.

3. Any vehicle which client(s) are permitted to drive by the foster home shall carry sufficient liability insurance covering client use of the vehicle.

4. Foster parent(s) shall not permit a client to operate a motor vehicle without a valid Louisiana license or learner's permit and the written authorization of the placing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

Chapter 15. Transitional Living

§1501. Purpose

A. It is the intent of the legislature to provide for the care and to protect the health, safety, and well being of youths in the custody or formerly in the custody of the State of Louisiana, who are nearing the age of majority and who, by reason of age, are unlikely to be placed with foster families for adoption. The legislature recognizes that such youth are likely to remain in need of supervision and services, even after reaching the age of majority, to assist them in making

the transition from child foster care to independent adulthood. It is the purpose of this policy to establish a system of licensed facilities to care for such persons up to the age of 22; to establish statewide minimum standards; to ensure the maintenance of those standards; and to regulate conditions in these facilities through a program of licensing and inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007).

§1503. Authority

A. Act 726 of the 2001 Regular Session directs the Department of Social Services, Bureau of Licensing to develop and publish minimum standards for licensing transitional youth residences. The bureau shall review such standards and, if necessary, revise and amend them at least once every six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2686 (December 2007).

§1505. Waivers

A. The secretary of the Department of Social Services may waive compliance with any standard if the intent of the standard is being met and if the health, safety, and well being of the persons in care are not affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007).

§1507. Application for Licensure

A. An application for a transitional youth residence license shall be made by the provider to:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821

B. There shall be an annual licensing fee of \$200 for each transitional youth residence caring for 6 or fewer youths; \$400 for each transitional youth residence caring for at least 7 but less than 11 youths; and \$600 for each transitional youth residence caring for 12 or more youths.

C. The Department of Social Services, Bureau of Licensing has the power to deny, revoke, or refuse to renew a license for a transitional youth residence if the applicant has failed to comply with the provisions of this policy.

D.1. Upon the refusal of the Bureau of Licensing to grant or renew a license or upon the revocation of a license, the applicant or licensee shall have the right to appeal such action by submitting a written request within 10 days of the receipt of the notification of the refusal or revocation to:

Bureau of Appeals
P. O. Box 2944
Baton Rouge, LA 70821

2. The appeal hearing shall be held no later than 30 days after the request.

E. Whoever operates a transitional youth residence without a valid license or in violation of this policy after being notified of such violation and being given an opportunity to correct such violation, shall be fined not less than \$75 or more than \$250 for each day of such offence. The Department of Social Services may file suit in the District Court for the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007).

§1509. Definitions

Abuse—the infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or other things of value, to such an extent that his/her health, self-determination, or emotional well-being is endangered.

Administrator—the owner or the manager designated by the governing body as responsible for the management, administration, and supervision of the program.

DSS—the Department of Social Services.

Documentation—written evidence or proof, signed and dated.

Human Services Field—psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, nursing, etc.

Shall or Must—indicates mandatory standards.

Transitional Youth Residence—any communal or supervised independent living arrangement existing for the primary purpose of providing care for at least 2, but less than 20, youths living in individualized apartment units, alone or jointly with other youths, under the supervision, custody or control, directly or indirectly, of the Office of Community Services.

Transitional Youth Residence Program—a program of services, including counseling, guidance, vocational or education training, and supervision for youths living in transitional youth residences.

Transitional Living—a program to provide care, supervision, vocation and education training, guidance and counseling for youth between the ages of 16 and 21 in the custody or formerly in the custody of the Office of Community Services, living in their own apartments (congregate or individual) to assist them in making the transition to adult living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007).

§1511. Inspections

A. The Department of Social Services, Bureau of Licensing shall inspect at regular intervals not to exceed one year, or deemed as necessary by the bureau, and without

prior notice, all transitional youth residence administrative offices subject to the provisions of this policy. The facility shall be open to inspection by authorized DSS personnel during working hours or at all times when youths are in care.

B. The bureau shall also investigate all complaints except those alleging abuse against a youth resident and those concerning the prevention and spread of communicable diseases. The bureau may take such action as is authorized in the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007).

§1513. General Requirements

A. A provider shall allow designated representatives of DSS in the performance of their mandated duties to inspect all aspects of a provider's functioning which impact the youth and to interview any staff member or youth.

B. A provider shall make available to DSS any information that the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements.

C. A provider will furnish adequate space for the representatives of DSS to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007).

§1515. Governing Body

A. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the program. The provider, whether it is a corporation, partnership or association, shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or by-laws.

B. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership; any officers of the governing body; and terms of office of any officers.

C. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

D. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

E. A private provider shall have documentation of its authority to operate under state law.

F. The provider's governing body shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the provider is adequately funded and fiscally sound;
4. review and approve the provider's annual budget;

5. designate a person to act as director and delegate sufficient authority to this person to manage the facility;

6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;

7. annually evaluate the director's performance;

8. have the authority to dismiss the director;

9. meet with designated representatives of DSS whenever required to do so;

10. inform designated representatives of DSS prior to initiating any substantial changes in the services provided; and

11. ensure that the director or a person authorized to act on behalf of the director shall be accessible to staff or designated representatives of DSS at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007).

§1517. Accounting

A provider shall not permit public funds to be paid, or committed to be paid, to any person to whom any of the members of the governing body, administrative personnel, or members of the immediate families of members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007).

§1519. Administrative Files

A. The provider shall maintain records that cover the basic administrative requirements of running a facility.

B. The administrative files shall include at least:

1. an organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies issued in the name of the provider that include commercial comprehensive liability and coverage for any owned and non-owned vehicles utilized to transport clients;
4. annual budgets;
5. master list of all social service providers and other contractors used by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social

Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007).

§1521. Program Description

A. A provider shall have a written program description describing:

1. the overall philosophy and approach to supervised transitional living;
2. the long-term and short-term goals;
3. the types of youth best served;
4. the provider's approach to service planning;
5. ongoing programs available to the youth during placements; and
6. any living arrangements provided.

B. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional living program.

1. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g.: career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g.: money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote: self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

2. Support services shall include, but not be limited to, the following: vocational assessment or training; GED classes; preparation for college entrance exams; driver's education, if appropriate; counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007).

§1523. Records

A. A provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

B. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

C. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007).

§1525. Confidentiality and Security of Files

A. A provider shall have a written policy and procedure for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and he/she, as custodian, shall secure records against loss, tampering, or unauthorized use.

B. A provider shall maintain the confidentiality of all youths' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the youth or his/her family directly or indirectly, to any unauthorized person.

C. When the youth is of majority age or emancipated, a provider shall obtain the youth's written informed permission prior to releasing any information from which the youth or his/her family might be identified.

D. When the youth is a minor, a provider shall obtain written informed consent from the legally responsible person prior to releasing any information from which the youth might be identified.

E. A provider shall, upon request, make available information in the case record to the youth, the legally responsible person, or legal counsel of the youth.

F. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information are disguised or deleted.

G. A provider shall not release a personnel file without the employee's permission except in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007).

§1527. Staffing Requirements

A. There shall be a director responsible for the day-to-day administration of the program who has at least a bachelor's degree in a human service field, one year of experience relative to the population being served, and is at least 21 years of age. Documentation of director's qualifications shall be on file.

B. There shall be a qualified professional who will have the responsibility for supervising the client's individual service plan. This person shall have at least a bachelor's degree in a human service field and one year of experience relative to the population served (one person can serve in the capacity as director and qualified professional).

C. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to carry out the responsibilities the provider undertakes and to adequately perform the following:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. direct youth service functions;
5. supervisory functions;

6. record keeping and reporting functions;
7. social service functions;
8. ancillary service functions.

D. A provider shall ensure that all staff members are properly supervised, certified and/or licensed as legally required.

E. A provider shall ensure that there is staff immediately accessible to the youth 24 hours a day, 7 days a week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007).

§1529. Staff Plan and Practices

A. A provider shall have a written plan for recruitment, screening, orientation, on-going training, development, supervision, and performance evaluations of staff members.

B. There shall be written job descriptions for each staff position.

C. The provider shall have a written employee grievance procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1531. Personnel File

A. A provider shall have a personnel file for each employee which shall contain:

1. the application for employment and/or résumé;
2. three reference letters from former employer(s) and personal references or phone notes on such references to assess applicant's qualifications;
3. criminal record clearance;
4. evidence of applicable professional credentials/certifications;
5. job description;
6. annual performance evaluations;
7. personnel actions, reports and notes relating to the individual's employment with the provider;
8. employee's starting and termination dates;
9. driver's license to operate a vehicle used to transport clients (if applicable).

B. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1533. Orientation

A. A provider's orientation program shall provide at least 16 hours of training for all direct service workers within one week of the date of employment to include the following topics:

1. philosophy, organization, program, practices and goals of the provider;

2. instructions in the specific responsibilities for the employee's job;

3. implementation of the transitional living plan;

4. emergency and safety procedures including medical emergencies;

5. detecting and reporting suspected abuse and neglect;

6. reporting critical incidents;

7. rights of youth;

8. crisis de-escalation and management of aggressive behavior;

9. assistance with self-administration of medications;

10. universal precautions;

11. methods of facilitating youth development training;

12. issues of adolescents and young adults.

B. A new employee shall sign a statement of understanding certifying that such training has occurred.

C. A new employee shall not be given sole responsibility for the implementation of the service plan until training is completed.

D. Each employee having direct care responsibilities shall have current first aid certification that shall be obtained within the first 30 days of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1535. Training

A. A provider shall ensure that each direct service worker participated in an annual review of all the orientation topics.

B. Current first aid certification shall be obtained for employees having direct care responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (February 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1537. Staff Communications

A. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the youth. Written documentation shall be maintained.

B. Any employee of a provider working directly with youth in care shall have access to information from the youths' case records that is necessary for effective performance of the employee's assigned tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1539. External Professional Services

A. A provider shall, as necessary, give assistance to youth in obtaining any required professional services not available from employees of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007).

§1541. Admission Policy

A. A provider shall have a written description of an admission policy that shall include the following information:

1. written description of the admission criteria as provided to all placing agencies;
2. the age and sex of the youth to be served by the provider;
3. the needs, problems, situations or patterns best addressed by the provider;
4. pre-admission skills and other criteria for successful participation in and completion of the program; and
5. criteria for discharge as well as the termination of admission agreement.

B. A provider shall not refuse admission to any youth on the grounds of race, color, sex, religion, national origin, handicap, or any non-merit factor in accordance with all state and federal guidelines.

C. A provider shall not accept any youth whose needs cannot be adequately met by the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2690 (December 2007).

§1543. Service Agreement

A. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

B. The service agreement shall include:

1. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring agency;
2. specification of all services to be provided including the plan for contact between the youth and provider staff;
3. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;
4. the provider's expectations concerning the youth and the youth's responsibility;
5. criteria for discharge;
6. specification of financial arrangements including any fees to be paid by the youth;
7. authorization to care for the youth;
8. authorization for medical care;
9. attendance and absences from the provider to also include curfew times; and
10. criteria for notifying the funding agency of any change of address of the youth and any significant change in the youth's life or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2690 (December 2007).

§1545. Service Planning

A. A provider shall make every effort to ensure that service and program planning for each youth is a comprehensive process involving appropriate provider staff; representatives of the referring agency; where appropriate, representatives of other significantly involved agencies; the youth; where appropriate, the legally responsible person; and any other person significantly involved in the youth's life on an ongoing basis.

1. The director, qualified professional, or a designated staff who meets the director qualifications, shall be responsible for the coordination and development of the transitional living plan.

2. A provider shall ensure the youth is in attendance during the development of his/her transitional living plan.

B. Following acceptance of a youth, a provider shall conduct an assessment of his/her transitional living skills and annually thereafter. The assessment shall include the following:

1. life safety skills including ability to access emergency services, basic safety practices and evacuation of the living unit;
2. physical and mental health care; (i.e., health maintenance, scheduling physician appointments);
3. recognizing when to contact a physician;
4. money management, budgeting, and consumer awareness (i.e. paying bills, shopping, food management, sources of income, credit);
5. self-administration of medication;
6. stated purpose and possible side effects of medications prescribed for the youth and other common prescription and non-prescription drugs and other drug use;
7. career planning/career interests;
8. use of transportation (i.e. ability to access public transportation, learning to drive, obtaining insurance);
9. social skills;
10. daily living skills (i.e., housekeeping, cooking, personal appearance, and grooming skills);
11. vocational/job skills/job seeking skills (i.e., employment experience, training);
12. identifying community resources;
13. education (i.e., current grade level; education goals/expectations/plans);
14. locating housing;
15. problem solving/decision making;
16. time management (punctuality and attendance);
17. communication skills;
18. parenting skills;
19. legal issues, knowledge of legal rights; and
20. use of recreation and leisure time.

C. On the basis of the transitional living skill assessment, a provider shall, within one month of placement, formulate a transitional living plan for the youth. The plan shall include:

1. the youth's long term goals;
2. time-limited, measurable objectives addressing training in skill areas identified as needs;
3. the type and frequency of supervision needed;

4. the identification of roles and responsibilities of all persons involved (youth, provider, and others) in the implementation of the plan;

5. the life skills and the criteria necessary for achieving a successful discharge; and

6. the preliminary plan for discharge and aftercare.

D. The plan shall be reviewed monthly and shall be revised whenever necessary. A written progress report shall be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:97 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2690 (December 2007).

§1547. Youth's Case Record

A. A provider shall have a written record for each youth that shall include:

1. the name, sex, race, birth date and birthplace of the youth; address of youth's current place of employment, school or other service providers;

2. other identification data including court status and legal status, identifying who is authorized to give consent;

3. youth's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. the service agreement;

5. written authorization signed by the youth or, when appropriate the legally responsible person for emergency medical care;

6. written authorization signed by the youth or, when appropriate the person legally responsible for managing the youth's money;

7. assessment of the youth's independent living skills;

8. a copy of the youth's individual service plan and any modifications or updates of the service plan;

9. monthly progress reports;

10. the names, addresses and phone numbers of the youth's physician and dentist;

11. psychological and psychiatric evaluation, if applicable;

12. dates of admission and discharge;

13. signed acknowledgement of rights and grievance procedures; and

14. incident reports.

B. A provider shall maintain health records on a youth including:

1. a description of any serious or life threatening medical condition of the youth;

2. a description of any medical treatment or medication necessary for the treatment of any serious or life threatening medical condition together with the provider's provisions for ensuring the youth's access to such medication or treatment;

3. current medications; and

4. report of general medical examination by a physician within a year prior to admission and annual exams; and

5. dental exams.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

30:97 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2691 (December 2007).

§1549. Accounting for Youth's Money

A. A provider shall have a written policy describing how they will manage the youth's money.

B. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

C. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

1. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

2. The money shall be kept in an individual account in the name of the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2691 (December 2007).

§1551. Supervision and Support

A. A provider shall have a written plan for providing support and supervision to youth in transitional living situations. This plan shall ensure:

1. regular contact between provider personnel and the youth daily and at least two face-to-face visits weekly in the youth's apartment. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian;

2. all contacts with the youth shall be documented; and

3. provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

B. A provider shall, through at least monthly visits by staff to the living situation, determine and document that:

1. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the youth is receiving any necessary medical care;

4. the current provider plan provides appropriate and sufficient services to the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2691 (December 2007).

§1553. Rights and Grievance Procedures for Youth

A. The provider shall have a written policy on youths' rights. A copy will be given to the youth to review and sign. The signature page will be maintained in the youth's record. The policy shall assure the youth:

1. are free from physical or psychological abuse or neglect, and from financial exploitation;

2. are able to consult freely and privately with his/her parent(s) or legal guardian(s);

3. are able to possess and use personal money and belongings;
4. are actively and meaningfully making decisions affecting his/her life;
5. are allowed to have privacy;
6. are allowed visits to and from his/her family and friends;
7. are not required to work without compensation;
8. are treated with dignity and respect;
9. are provided due process;
10. have access to records, including information about their finances;
11. participate in self-directed service planning which is developed and modified timely;
12. are provided adequate and appropriate assistance in meal planning;
13. shall not be deprived of any civil or legal rights, benefits, or privileges guaranteed by law or the Constitution of the United States;
14. shall not be denied admission to a program, segregated, or discriminated against on the basis of race, sex, handicap, creed, national background or ancestry, sexual orientation, political beliefs, or any other non-merit factor;
15. are provided access to professional and specialized services, as appropriate;
16. shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used;
17. shall be allowed to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services;
18. shall be encouraged and assisted to exercise rights as a citizen; to voice grievances;
19. shall be free to consult with legal counsel of their choice;
20. are allowed to meet with representatives of the Bureau of Licensing as well as other state officials.

B. The provider shall have a written grievance policy and procedures for youth designed to allow them to make complaints without fear of retaliation. The youth shall be informed of the advocacy services available.

1. The provider shall make every effort to ensure that all youth are aware of and understand the grievance procedure.

2. The youth's records shall contain a record of any grievances and their resolutions.

C. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

1. The Youth Advisory Committee shall be allowed to meet at least monthly.

2. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:98 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2691 (December 2007).

§1555. Reporting of Critical Incidents and Abuse and Neglect

A. A provider shall have a written policy and procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well being of the youth (i.e., accident or injury to the youth, unexplained overnight absences, death, fights or physical confrontations, suspected incidents of abuse or neglect, etc.).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as a part of the youth's record.

B. A provider shall have comprehensive written procedures concerning abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. ensuring that regulations for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator completes an investigation report within 10 working days;

4. ensuring that the youth is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect youth; and

6. ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is complete.

C. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. a brief description of the incident;

2. date and time the incident occurred;

3. where the incident occurred;

4. action taken as a result of the incident;

5. name and signature of the person who completed the report and the name(s) of person(s) who witnesses the incident; and

6. date and time and name of responsibility party notified.

D. In the event an incident results in the death of a youth, involves abuse or neglect of a youth, or entails any serious threat to the youth's health, safety or well being, the provider shall:

1. immediately report to the placing agency with a preliminary written report within 24 hours of the incident;

2. immediately notify the appropriate law enforcement authority in accordance with state law;

3. immediately notify the Bureau of Licensing and other appropriate authorities, according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

4. immediately notify to the family or representative of the youth, with written notification to follow within 24 hours;

5. provide follow-up written reports to all the above persons and agencies; and

6. document appropriate corrective action taken to prevent future incidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2692 (December 2007).

§1557. Behavior Management

A. A provider shall have a written description of any behavior management strategies to be utilized.

B. No strategy shall deny any of the youth's rights unless approved by the individual plan of care.

C. The youth's record shall document that he/she has acknowledged receiving a copy of the behavior management strategies at admission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1559. Transportation

A. A provider shall ensure that every vehicle used by provider staff to transport youth is properly maintained, inspected, licensed according to state laws, and insured.

B. Any youth who drives must be properly licensed to operate any vehicle which he/she drives and has the required insurance coverage. The youth's record must contain this documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1561. Physical Environment

A. A provider shall ensure and document in the youth's record that any living situation selected by the provider for the use of youth is:

1. accessible to and functional for the youth, taking into consideration any handicapping condition or other disability of the youth;

2. free from any hazard to health or safety;

3. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

4. in compliance with applicable health, safety, sanitation and zoning codes. The provider shall, on request, allow DSS to inspect any living situation;

5. each resident shall have his or her own bed; and

6. living situations shall be equipped with operable smoke detectors and fire extinguishers.

B. A provider shall ensure and document in the youth's record that any youth placed in a transitional living situation selected by the provider has:

1. 24-hour access to a telephone;

2. access to transportation; and

3. access to any services mandated by the youth's service program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1563. Capacity

A. A provider shall ensure that no more than three youths are placed in an apartment utilized as a transitional living situation.

B. A provider who utilizes communal living arrangements (home situation) housing four or more must obtain fire and health approval.

C. A provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any resident of the living situation or with the overall philosophy of the provider.

D. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1565. Emergency Procedures

A. The provider shall ensure the development of an emergency evacuation policy and safety plan for each client that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

B. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

1. instruction in evacuation from the living situation;

2. instruction in contacting police, fire and other emergency services; and

3. instruction in fire and accident prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1567. Food Service

A. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

B. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007).

§1569. Discharge

A. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

B. A provider shall, whenever possible, notify the placing agency and the youth's parent(s), tutor or curator as soon as possible or within five working days prior to the planned discharge of a youth.

C. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another agency, this summary must accompany the youth. This summary shall include:

1. a summary of services provided during involvement in the program;
2. a summary of growth and accomplishments during involvement;
3. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

Chapter 17. Maternity Home

§1701. Fee

A. There is an annual licensure fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

§1703. Definition

A. A maternity home is defined as "any place in which any person, society, agency, corporation, or facility receives, treats or cares for within a period of six months, more than one illegitimately pregnant woman, either before, during or within two weeks after childbirth. The provisions of this definition shall not include the sixth degree of kindred computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental." This definition does not include foster family homes used by agencies in lieu of group care. These foster family homes would come under regulations governing child placing agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

§1705. Application

A. The original application for a license is made on a form provided by the Division of Licensing and

Certification. A license will be issued for a period of one year unless there is mutual agreement between the division and the maternity home that it be for a greater or lesser period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

§1707. Licensing Procedures

A. A social services consultant of the division's staff will prepare a comprehensive survey of the home's program, measuring performance in relation to requirements and offering recommendations and suggestions in indicated areas. This report will be made available to the facility for review of facts prior to submission to the director of the Division of Licensing and Certification for a decision on the license. A home has the right to appeal through the court if its license is denied or revoked.

B. The licensing report is held confidential by the division but must be released to persons or courts upon request.

C. A maternity home which is operated in conjunction with other programs subject to license, such as child caring and/or child placing programs, shall obtain a license for each of its programs.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

§1709. Organization and Administration

A. Purpose

1. There shall be a written statement specifying the purpose of the maternity home. This statement shall be one which has been adopted by the governing body. All functions of the maternity home shall be stated in its charter, or articles, when the home operates under one of these.

2. It shall be clear from the practices of the home that the purposes for which it was declared to be established are being met.

3. The governing body shall adopt a supplementary statement of any new function which is added to the program of the maternity home.

B. Governing Body

1. There shall be a responsible governing body which shall be of the following:

a. a board of local citizens elected or appointed for that purpose;

b. a religious, fraternal, charitable organization, or veteran's organization; or

c. a public authority.

2. This governing body shall exercise sufficient authority so that it can reasonably be held responsible for the practices within the maternity home.

3. The governing body shall have the power to appoint or dismiss the executive director and shall carry responsibility for the direction of the program.

4. If the governing body is a national or regional organization and has a local advisory board or committee, minutes of the local group setting forth changes in policies and administrative decisions affecting the local operation shall be made available to the licensing authority.

C. Administrative Responsibilities

1. There shall be one person employed by the governing body to serve as superintendent or executive director. This person shall be responsible for the administration of the maternity home.

2. The agency executive director or superintendent shall be responsible for the direction and supervision of all personnel employed in the maternity home.

3. The duties, responsibilities, and authority of each staff member shall be clearly defined specifying:

a. where responsibilities, and authority rest for each of his or her functions within the maternity home;

b. that no responsibility or authority shall conflict with another.

4. The duties, responsibilities, and authority of each board committee working directly with staff shall be clearly defined.

5. The following personnel practices shall be observed:

a. the Division of Licensing and Certification shall be notified promptly when there is a change of executive director within the period covered by a license, this notification shall include a statement of the qualifications of the new employee;

b. only such staff members who are qualified for the duties assigned by virtue of ability, health, age, emotional stability, education, and experience shall be employed and retained in employment;

c. A written statement shall be given to the employee at the time of employment setting forth the duties that will be assigned to him, to whom he is directly responsible, and conditions of employment, including official responsibilities, salary, hours of work, sick leave, retirement benefits, vacations, and the notice he will be expected to give or receive in case of resignation or release;

d. No person shall be required to do work in contravention of the labor laws of the state of Louisiana or the United States;

e. The governing body of the maternity home shall be encouraged to participate in a retirement plan for the employees, such coverage may be the home's own retirement plan or Retirement Survivors' and Disability Insurance.

D. Resources

1. The maternity home shall prepare an annual budget adequate to finance the program. The budget shall be prepared for the maternity home's fiscal year and shall clearly indicate all sources of income as well as anticipated expenditures.

2. The maternity home partially dependent on board payments to carry out its functions shall have sufficient

funds available to continue care until other plans can be made for residents should contributions cease.

3. The governing body shall not assign to the personnel of the maternity home the responsibility for fund raising.

4. Soliciting funds shall be the responsibility of the governing body or of a special officer appointed for this purpose.

E. Auditing of Accounts

1. Accounts of the maternity home shall be audited annually by an independent certified public accountant or by a public authority.

F. Personnel Plan

1. An executive director shall be employed whose qualifications include a basic year's training in an accredited school of social work, or three years of successful experience in a recognized social agency, or five years successful experience in closely allied fields such as nursing, education, or ministry.

2. A caseworker shall be employed who meets the following qualifications: completion of one basic year in an accredited school of social work and one year of experience in a family or children's agency. The experience may be waived if the facility employs a casework supervisor with the same qualifications as the supervisor in a child placing agency.

3. A case aide or aides may be employed with the following qualifications: a B. A. or B. S. degree in social work or a related field. This person shall be closely supervised by the casework supervisor.

4. A full-time resident staff person shall be employed when the superintendent does not live at the home. The resident staff person's qualifications shall include:

a. a high school education;

b. at least two years successful experience in allied fields such as practical nursing, household management, housemother experience;

c. an ability to accept and work with expectant mothers;

d. an ability to supervise assistant resident staff persons; and e. be over the age of 21.

5. Assistant staff person, with the following qualifications, shall be employed when the population requires it:

a. a high school education;

b. an ability to accept and work with expectant mothers; and c. be over the age of 21.

6. There shall be on call at all times an employee who is a graduate nurse or practical nurse.

a. The graduate nurse must have a current license to practice nursing in the state of Louisiana.

b. The practical nurse must have a current license to practice in the state of Louisiana.

7. Sufficient clerical staff shall be employed to keep correspondence, records, bookkeeping system, and files current and in good order. Expectant mothers receiving care in the maternity home shall not be used in this capacity. Clerical staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

8. Sufficient domestic staff shall be employed so that the major and heavy household duties are not assigned to the expectant mothers or become the duties of the resident staff

person. Domestic staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

9. All employees living or working within an institution shall be required to obtain a written statement from a physician certifying that the employee is free from venereal disease, tuberculosis, and other infectious or contagious disease. This statement shall be obtained prior to employment, or immediately thereafter and annually during employment.

10. Resident staff shall be provided with quarters which insure reasonable privacy and rest during hours off duty. In addition, provision shall be made for personal belongings and bathing and toilet facilities separate from those used by expectant mothers.

11. Foster homes which are used in lieu of a congregate home shall meet the standards outlined for foster homes in "Minimum Requirements for License of Child Placing Agencies," published by the Division of Licensing and Certification.

G. Staff

1. There shall be on duty at all times one adult serving in the capacity of resident staff. In addition, an alternate person shall be on call. There shall be one adult on the staff designated as the assistant to the resident staff who will also serve as relief resident staff.

2. In small maternity homes, it may be necessary for one employee to serve in more than one capacity. When this practice is followed, the employee shall be well qualified by training and experience for the different duties assigned.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007).

§1711. Ethical Practices

A. The following code of professional ethics shall be observed:

1. Respect for the confidential nature of information provided by expectant mother and other agencies. Divulging identifying information about the expectant mother or her baby to anyone other than professional social casework staff and judicial agencies is prohibited. Information may be provided to other social casework staff and judicial agencies only when necessary for planning for the mother or the baby's welfare. Information about the mother may be given to other professional persons such as physicians or attorneys with the mother's written permission. Honesty in all dealing with expectant mothers, with other organizations and the public, including the keeping of agreements made with each.

2. The fulfilling of any responsibility accepted by the maternity home from courts of law.

3. Utilizing funds for the stated purposes of the maternity home.

4. Honoring contracts and prompt payment of bills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2696 (December 2007).

§1713. Social Services

A. A social study shall be completed for every expectant mother accepted for care by the maternity home. The social study shall be completed by a caseworker on the maternity home's staff or by a caseworker of the referring agency. When she is accepted through correspondence or on an emergency basis, the expectant mother shall be interviewed by the maternity home caseworker within a week after arrival. An immediate interview however, is preferable.

B. Intake

1. The intake study shall include social information establishing that the expectant mother is in need of the services of the maternity home.

2. The following identifying information is essential: name, date of birth, nationality, religion, education, occupation, health history, physical appearance of mother, marital status, and home address.

3. The social worker shall discuss with the expectant mother the following:

a. the regulations of the maternity home and her responsibilities;

b. the services available to her through the maternity home and community;

c. agreement that while she is in the care of the maternity home she may plan either to keep or to release her baby. The narrative record shall clearly show that a full discussion was held with the expectant mother regarding alternatives. The expectant mother should understand that should she not surrender her child to the home, the home will release the child only to the mother or to a licensed agency.

4. The agreement shall be in writing when a charge for care is made.

C. Continuing Casework

1. Following admission, the social worker shall counsel with the expectant mother as often as her individual needs require. The caseworker will begin to establish a relationship in order to gain an understanding of the expectant mother's total situation and the meaning of the pregnancy for the expectant mother.

2. Interviewing shall be focused on the expectant mother's individual problems and on plans for the baby. In general, the treatment plan will be focused on preparing the expectant mother for a return to useful community life and providing her with information regarding the resources available in her local community.

3. The decision to surrender or take her baby should be made by the mother before, or at the time of discharge. Should the expectant mother desire postponement of her decision regarding surrender, the consideration of allowing more time shall be made on an individual basis by the social worker. In any event, adequate discharge plans shall be made.

4. The social worker shall know at the time of discharge what plans the expectant mother has for living arrangements, employment, or school. It is the social

worker's responsibility to assist the expectant mother directly or through referral to other agencies when she needs help in these areas.

D. Records

1. A narrative record shall be maintained which incorporates the information required in A and B of this Section. Copies of correspondence, agreements, and other forms shall be filed in this folder. The confidential nature of these records shall be respected, and these records are for the use of professional casework staff only. Social records shall be accessible only to the appropriate staff and shall be maintained in locked files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2696 (December 2007).

§1715. Care in the Home

A. Health Aspects

1. Responsibility for the health supervision of the maternity home shall be placed in a licensed physician or a group of licensed physicians appointed by the governing body. A physician shall approve written procedures governing the following:

- a. medications and treatment that may be given without specific orders from a licensed physician or by a physician designated by him;
- b. circumstances under which a physician shall be called;
- c. action to be taken in case of emergency;
- d. a special diet if required; and
- e. household tasks that may be required. The physician shall review annually the health practices within the maternity home and certify in writing that they meet the licensing requirements.

2. Unless the maternity home requires, prior to admission, a statement from a physician that the expectant mother is free from communicable diseases, the maternity home shall have an isolation facility available. The expectant mother admitted without the statement from the physician shall be placed in isolation until she has had a complete physical examination to determine her freedom from communicable diseases.

3. The expectant mother shall be placed immediately under medical supervision. She shall have a physical examination within a week after admission to the home and at least monthly prior to confinement and before discharge. Should she leave the home before she is medically discharged, this fact shall be recorded on her medical record.

4. Nourishing food, attractively served, shall be provided. The diet shall be planned in consultation with a nurse, or if a special diet, the physician in charge. Necessary changes in diet prescribed in individual cases by the physician shall be followed.

5. A complete medical record shall be maintained on each expectant mother when she delivers at the maternity home. The case worker or nurse is responsible for maintaining a record for each expectant mother who delivers in public or private hospitals. This record shall contain dates of visits to the medical facility and a summary of medical

consultation. Delivery information on the infant shall be recorded. These records shall be maintained in locked files.

6. When an infant is admitted for care into the home's nursery, all standards for child caring institutions apply.

E. Program

1. Regulations

a. The regulations of the maternity home shall not infringe on the expectant mother's privilege of writing and receiving uncensored mail and visits from her family.

b. The same food shall be served to the staff and expectant mothers when they dine together, except when special diets must be prepared for any of the expectant mothers.

c. A mother who wishes to give personal attention to her baby, such as bathing and feeding, shall be permitted to do so.

d. An expectant mother shall be allowed a choice of duties, insofar as possible.

2. Recreation

a. A recreational program shall be provided which will meet the individual needs of the expectant mothers. This program shall consist of a well-stocked library, magazines, newspapers, games, radio or television, piano, and record players. It is desirable to encourage arts and crafts with proper leadership. There shall be provision for outdoor activities. The yard should provide for privacy and be equipped with comfortable outdoor furniture. Expectant mothers interested in community activities should be encouraged to participate.

3. Education

a. Every effort shall be made to arrange continued education for girls under 16 and for older girls whose schooling has been interrupted. Vocational training when appropriate should be encouraged. Household duties should have an educational value.

4. Religion

a. Expectant mothers shall have the privilege of attending the church of their choice. Religious services should be available in the maternity home to those expectant mothers wishing to attend. An expectant mother wishing consultation with her pastor shall be provided the opportunity.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2697 (December 2007).

§1717. Plant and Equipment

A. Maintenance

1. The building, grounds, and equipment shall be kept clean and in good repair.

B. Location. Local zoning ordinances should be followed.

C. Allocation of Space

1. The room assigned expectant mothers shall be clean, airy, and inviting. Each expectant mother shall have a separate bed, and there shall be at least four feet between beds. Each expectant mother shall have adequate closet and drawer space for personal possessions in the room assigned to her. There shall be toilet and bath facilities available in the ratio of one to six expectant mothers. Any maternity

home established or rebuilt shall be designed for a maximum of not more than four girls to a room.

2. A recreation room for the exclusive use of the expectant mothers shall be provided.

3. A room insuring privacy where expectant mothers can visit with their families shall be provided.

4. An isolation room and bath for expectant mothers admitted prior to examination for communicable diseases shall be provided.

5. When facilities for delivery are provided in the maternity home, separate and properly equipped quarters approved by the home's physician shall be provided.

6. When the home has facilities for delivery, a recovery room shall be provided on the same floor as the delivery room unless an elevator is available.

7. Separate, private offices shall be provided for the casework staff when the offices are housed in the maternity home. Facilities for the use of a private telephone should be provided.

8. Living quarters separate from those occupied by the expectant mothers shall be provided for auxiliary staff (nursery attendants, domestic staff, and maintenance staff), if they are required to live in.

D. Safety Aspects

1. All requirements of the local state fire prevention and health authorities shall be met. An annual inspection by each of the authorities shall be requested by a designated authority of the maternity home and the report shall be submitted to the Division of Licensing and Certification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1401-11.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2697 (December 2007).

Chapter 19. Child Residential Care

§1901. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well-being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2129 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007).

§1903. Authority

A. Legislative Provisions

1. The State of Louisiana, Department of Social Services, is charged with the responsibility of developing and publishing standards for the licensing of child residential facilities.

2. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1425 and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (twenty-four hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody.

3. To carry out the legislative provisions and meet the needs of children who have been placed in out-of-home care, separate regulations have been developed which are designed for the different types of programs. These programs are established as "modules" to the child residential care regulations as listed below:

- a. Therapeutic Wilderness Program; and
- b. Controlled Intensive Care Facility or Unit.

4. To obtain a license as a Child Residential Care Facility, an applicant must meet, and adhere to, the licensing standards as stipulated in §§1901-1921. These standards shall be known as core standards.

5. To obtain a license as a Therapeutic Wilderness Program, an applicant must meet the core standards plus the licensing standards as stipulated in the module under §1923. If any core standard is not applicable to the Therapeutic Wilderness Program, it shall be so stated in the module.

6. To obtain a license as a Controlled Intensive Care Facility or Unit, an applicant must meet the core standards plus the licensing standards as stipulated in the module under §1925. If any core standard is not applicable to the Controlled Intensive Care Facility or Unit, it shall be so stated in the module.

7. An applicant may be licensed as a "stand alone" Child Residential Facility, a Therapeutic Wilderness Program or a Controlled Intensive Care Facility.

8. A facility already licensed as a Child Residential Facility may also be licensed to operate a Therapeutic Wilderness Program or a Controlled Intensive Care Unit by meeting the additional appropriate licensing standards. However, the licensed capacity of these units shall be separate from the licensed capacity of the Child Residential Facility.

9. A facility already licensed by another agency or as another type program must meet the licensing standards for Child Residential Facility plus the appropriate module standards.

10. A facility licensed by another agency or as another type program must have a clear separation between the areas to be licensed that will prohibit the residents from intermingling.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in R.S. 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75 nor more than \$250 for each day of such offense.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter (R.S. 46:1417)."

2. When the department is advised or has reason to believe that any person, agency or organization is operating a nonexempt child residential facility without a license or provisional license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Child Residential Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

D. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies (The Class A Child Care Committee)

1. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies was created by Act 286 of 1985 to serve three functions:

a. to develop new minimum standards for licensure of Class A facilities ("new" meaning the first regulations written after Act 286 of 1985);

b. to review and consult with the Department of Social Services on all revisions written by the Bureau of Licensing after the initial regulations and to review all standards, rules and regulations for Class A facilities at least every three years;

c. to advise and consult with the Department of Social Services on matters pertaining to decisions to deny, revoke or refuse a Class A license.

2. The committee is composed of 20 members, appointed by the governor, including provider and consumer representatives from all types of child care services and the educational and professional community.

E. Waivers

1. The secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health, safety, and well-being of the staff/children are not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, then the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau

of Licensing, LR 24:2129 (November 1998), LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2698 (December 2007).

§1905. Procedures

A. Initial Application

1. New buildings shall be noninstitutional in design and appearance and physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the City Fire Department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by:

Department of Social Services
Bureau of Licensing
P.O. Box 3078
Baton Rouge, La. 70821-3078
Phone: (504)922-0015
FAX: (504)922-0014

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

i. Office of Public Health, Sanitarian Services;
ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
iii. Office of City Fire Department (if applicable);
iv. Zoning Department (if applicable);
v. City or Parish Building Permit Office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; Office of City Fire Department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A licensing specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

i. approval by the Office of Public Health;
ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
iii. approval by the city fire department (if applicable);
iv. approval by the city or parish zoning (if applicable);
v. approval by the city or parish building permit (if applicable);
vi. a completed licensure inspection verifying substantial compliance with these standards;

vii. full license fee paid.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §1905. A.1.e. shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §1905.A.1.e. shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §1905.A.1.c. and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. Fee schedules (based on licensed capacity) are listed below:

- | | |
|------------------------------|-------|
| a. Four to six children | \$400 |
| b. Seven to fifteen children | \$500 |
| c. Sixteen or more children | \$600 |

3. Other licensure fees include:

a. a replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (no replacement charge when the request coincides with the regular renewal of a license.);

b. a processing fee of \$5 for issuing a duplicate license with no changes.

C. Relicensing

1. A license shall be renewed on an annual basis.

a. The month of issue of the initial license becomes the anniversary month for all renewals. Generally all licenses expire on the last day of the month.

2. Approximately 90 days prior to the annual expiration of a license, a notice and an application form will be mailed to the licensee. The completed application along with the full license fee shall be returned prior to relicensure.

3. A relicensing inspection will be made by staff of the Bureau of Licensing to determine continued compliance with licensing regulations.

4. A current approval from the Office of State Fire Marshal, Code Enforcement and Building Safety; the City Fire Department (if applicable); and the Office of Public Health, Sanitarian Services shall be received by the Bureau of Licensing. It is the responsibility of the licensee to obtain these inspections and approvals.

5. The Department of Social Services, Bureau of Licensing, shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, administrator, hours/months/days of operation, ownership, location, etc.

D. Denial, Revocation, or Nonrenewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure;

b. conviction of a felony, as shown by a certified copy of the record of the court of conviction, of the applicant;

i. or if the applicant is a firm or corporation, of any of its members or officers;

ii. or of any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure.

E. Appeal Procedure. If the license is refused or revoked because the facility does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, Bureau of Licensing, by certified letter, shall advise the licensee or applicant of the reasons for the denial or revocation and the right of appeal.

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 30 days of the receipt of the notification in §1905.E.1 above.

3. The Bureau of Appeals shall set a hearing to be held within 30 days after receipt of such a request.

4. An appeals hearing officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the hearing officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the facility shall terminate operation immediately.

5. If the facility continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

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§1907. Definitions

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the child:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

2. the exploitation or overwork of a child by a parent or any other person;

3. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's pornographic displays or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change fostering the child's self-control, and to prevent or interrupt a child's behavior which threatens harm to the child or others.

Bureau—the Bureau of Licensing within the Department of Social Services.

Controlled Intensive Care Facility or Unit—a staff secure, intensive therapeutic program of individualized treatment provided on a 24 hour, 7 day a week basis.

Controlled Time-Out—an intervention used only in extreme situations where a child is out of control, and is a danger to him/herself or others, or whose presence is a severe disruption of the therapeutic environment.

Core Standards—the basic licensing standards that all providers must meet in order to obtain a license.

Department—the Department of Social Services.

Director—the person who has program authority.

Discipline—the ongoing practice of helping children or juveniles to develop inner control so that they can manage their own behavior in an appropriate and acceptable manner.

Documentation—written evidence or proof, including signatures of appropriate staff and date, on site and available for review.

Group (or unit)—refers to the number of children or juveniles who share a common space and relate to one

primary staff person (who may be assisted by others) on a consistent or daily basis.

Human Service Field—Psychology, Sociology, Special Education, Rehabilitation Counseling, Juvenile Justice, Corrections, Nursing, etc.

License—the legal authority to operate.

Phases of Behavior Escalation—

1. a change in or an abnormal behavior occurs;

2. there is more agitation and the child begins to disrupt the environment;

3. finally, the child's behavior escalates to the level of possibly harming others or himself/herself at which time a physical restraint may occur;

4. following escalation there is a period of de-escalation.

Module—the additional licensing standards that must be met, in addition to the core standards, to obtain a license for a particular specialty.

Residential Parenting Facility—a facility in which teenage mothers and their children reside for the purpose of keeping mother and child together, teaching parenting and life skills to the mother and assisting teenage mothers in obtaining educational or vocational training and skills.

Shall or Must—a mandatory requirement.

Should—a requirement that is urged or advised.

Therapeutic Wilderness Program—an incorporation of a primitive camping program with a nonpunitive environment, and an experience curriculum for residents 9 years of age and older who have difficulty functioning in home, school and community.

Time-Out—an intervention utilized when a child needs to be removed from a situation or circumstance and does not have the ability, at the time, to self monitor and determine readiness to rejoin the group.

Treatment Plan Manager—the individual who is assigned responsibilities as outlined in §1917 "Treatment Planning."

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§1909. Administration and Organization

A. General Requirements

1. A provider shall allow representatives of DSS in the performance of their mandated duties to inspect all aspects of a program's functioning that impact on children and to interview any staff member or child. DSS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DSS representatives shall be permitted to verify that no children are present in that portion and that the private areas are inaccessible to children. Any area to which children have or have had access is presumed to be part of the facility and not the private quarters of the owner/operator.

2. A provider shall make any information that the provider is required to have under the present requirements, and any information reasonably related to assessment of

compliance with these requirements available to DSS. The child's rights shall not be considered abridged by this requirement.

3. A provider accepting any child who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the Compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including initial and annual approval by the following:

1. the Office of Public Health, Sanitarian Services;
2. Office of the State Fire Marshal, Code Enforcement and Building Safety;
3. the City Fire Department (if applicable);
4. the local governing authority or zoning approval (if applicable);
5. the Department of Education (if applicable).

C. Governing Body. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

1. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership (if applicable); officers of the governing body (if applicable) and terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;
4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
5. designate a person to act as administrator/director and delegate sufficient authority to this person to manage the provider;

6. formulate and annually review, in consultation with the administrator/director, written policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the administrator/director;

8. meet with designated representatives of DSS whenever required to do so;

9. inform designated representatives of DSS prior to initiating any substantial changes in the program, services or physical plant of the provider.

E. Administrative File. A provider shall have an administrative file including:

1. organizational chart of the provider;
2. all leases, contracts and purchase-of-service agreements to which the provider is a party;
3. insurance policies: every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment;
4. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider;

Note: The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

5. written policies and procedures governing all aspects of the provider's activities.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or designated representatives of DSS at all times (twenty-four hours per day, seven days per week).

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.
2. A privately owned provider shall have documents identifying the names and addresses of owners.
3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or bylaws.

H. Accounting and Record Keeping

1. A provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.
2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.
3. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.
4. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

I. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and describing both long-term and short-term goals.

J. Program Description

1. A provider shall have a written program plan describing the services and programs offered by the provider.

2. A provider shall have a written policy regarding participation of children in activities related to fundraising and publicity. Consent of the child and, where appropriate, the child's parent(s) or legal guardian(s) shall be obtained prior to participation in such activities.

3. A provider shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of children.

a. The written consent of the child and, where appropriate, the child's parent(s) or legal guardian(s) shall be obtained before the child is photographed or recorded for research or program publicity purposes.

b. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child.

4. A provider shall have written policies regarding the participation of children in research projects. No child shall participate in any research project without the express written consent of the child and the child's parent(s) or legal guardian(s).

K. Representation at Hearings. A provider shall, when required by law, have a representative present at all judicial, educational or administrative hearings that address the status of a child in care of the provider.

L. Children's Rights

1. All children shall be guaranteed the following rights, unless expressly contraindicated by the treatment plan. A provider shall have a comprehensive written policy on children's rights that assures each of those rights.

a. A child's civil rights are not abridged or abrogated solely as a result of placement in the provider's program.

b. A child has the right to consult freely and privately with his/her parent(s) or legal guardian(s).

c. A child has the right to consult freely and privately with legal counsel, as well as the right to employ legal counsel of his/her choosing.

d. A child is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, handicap, political beliefs, or any other nonmerit factor.

e. A child has the right to receive preventive, routine and emergency health care.

f. A child has the right to make complaints without fear of reprisal.

g. A child is protected from abuse and neglect.

h. A child has the right to participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services.

i. A child is afforded the opportunity for telephone communication.

j. A child is allowed to send and receive mail.

k. A child is allowed visits to and from his/her family and friends.

l. A child is allowed to possess and use personal money and belongings, including personal clothing.

m. A child is explained the provider's policy on involvement of children in work.

n. A child is afforded opportunities for recreation and leisure.

o. A child has the right to adequate and appropriate food service.

p. A child has access to professional and specialized services as appropriate.

q. A child has the right to a timely (within 30 days of admission) treatment plan.

r. A child has the right to communicate freely and privately with state and local regulatory officials.

2. None of the rights guaranteed above shall be infringed or restricted in any way unless such restriction is

necessary to the child's individual treatment plan. No treatment plan shall restrict the access of a child to legal counsel or restrict the access of state or local regulatory officials to a child.

3. Prior to admission, a provider shall clearly explain all of the child's civil rights to both the child and the child's parent(s) or legal guardian(s) and shall clearly explain any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the child's individual treatment plan and the extent and duration of those restrictions. Documentation shall consist of a statement of children's civil rights, together with any restrictions thereon, the reasons for those restrictions and the extent and duration of those restrictions, signed by provider staff, the child and the child's parent(s) or legal guardian(s).

M. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all children's case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person.

3. When the child is of majority age and noninterdicted, a provider shall obtain the child's written, informed permission prior to releasing any information from which the child or his/her family might be identified, except for authorized state and federal agencies.

4. When the child is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s) or legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams, authorized state and federal agencies.

5. A provider shall, upon written authorization from the child or his/her parent(s) or legal guardian(s), make available information in the case record to the child, his counsel or the child's parent(s) or legal guardian(s). If, in the professional judgement of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the child, the provider may deny access to the record. In any such case the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the child's file.

6. A provider may use material from case records for teaching for research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the child or his/her parent(s) or legal guardian(s).

7. Children's records shall be retained in accordance with state/federal regulations.

N. Child's Case Record. A provider shall have a written record for each child that shall include administrative, treatment and educational data from the time of admission until the time the child leaves the provider. All children's records shall be available for inspection by the Department of Social Services. A child's case record shall include:

1. the name, home address, home telephone number, name of parent(s) or legal guardian(s), home address and telephone number of parent(s) or legal guardian(s) (if different from child's), sex, race, religion, birth date and birthplace of the child;

2. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

3. placement agreement, including proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved;

4. child's history including family data, educational background, employment record, prior medical history and prior placement history;

5. a copy of the child's individual service plan and any modifications thereto and an appropriate summary to guide and assist direct service workers in implementing the child's program;

6. quarterly status reports;

7. reports of any incidents of abuse, neglect, accidents or critical incidents, including use of passive physical restraints;

8. reports of any child's grievances and the conclusions or dispositions of these reports. If the child's grievance was in writing, a copy of the written grievance shall be included;

9. a summary of family visits and contacts including dates, the nature of such visits/contacts and feedback from the family;

10. a summary of attendance and leaves from the provider;

11. a summary of court visits;

12. medical and dental records;

13. written summaries from providers of professional or specialized services;

14. discharge summary at time of discharge;

15. a copy of the child's original intake evaluation/assessment. If the child was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

16. a copy of the physical assessment report;

17. a copy of all annual reports.

O. Medical and Dental Records

1. A provider shall maintain complete health records of a child including:

a. a complete record of all immunizations provided;

b. records of physical, dental and vision examinations;

c. a complete record of any treatment and medication provided for a specific illness or medical emergencies.

2. A provider shall compile a past medical history on every child. This history shall include:

a. allergies, and abnormal reactions to medication;

b. immunization history;

c. history of serious illness, serious injury or major surgery;

d. developmental history;

e. current use of prescribed medication;

f. current or former use of alcohol or nonprescribed drugs;

g. medical history.

P. Personnel File

1. A provider shall have a personnel file for each employee that shall contain:

a. the application for employment/resume;

b. documentation of contact with three references;

c. all required documentation of appropriate status that includes:

i. current driver's license for operating provider or private vehicles in transporting children;

ii. professional credentials/certification required to hold the position;

d. periodic, at least annual performance evaluations;

e. staff member's starting and termination dates;

f. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

g. documentation of satisfactory criminal record check;

h. documentation of employee's orientation and any training received.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

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§1911. Human Resources

A. Staff Plan

1. A provider shall have a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members whether directly employed, contract or volunteer.

2. A provider shall have written personnel policies and written job descriptions for each staff position.

3. A provider shall have a written employee grievance procedure.

B. Nondiscrimination. The provider shall have a written nondiscrimination policy that shall ensure the provider does not discriminate in employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, veteran's status or any non-merit factor in accordance with all state and federal regulations.

C. Staff Medical Requirement

1. Upon offer of employment, all staff shall be required to obtain a statement of good health signed by the physician or physician's designee. A statement of good health dated within three months prior to offer of employment or within one month after date of employment is acceptable. A health statement is due every three years.

2. All persons prior to or at time of employment shall be free of tuberculosis in a communicable state as evidenced by:

- a. a negative Mantoux skin test for tuberculosis;
- b. a normal chest x-ray if the aforementioned skin test is positive; or
- c. a statement from a licensed physician certifying that the individual is noninfectious if the chest x-ray is other than normal.

3. Any employee who has a positive Mantoux skin test for tuberculosis, in order to remain employed, shall complete an adequate course of therapy as prescribed by a licensed physician or shall present a signed statement from a licensed physician stating that therapy is not indicated.

D. Screening

1. A provider's screening procedures shall address the prospective employee's qualifications, as related to the appropriate job description.

a. Prior to employment, each prospective employee shall complete an employment application. The application/resume shall contain complete information about an applicant's education, employment history, and criminal background, including any arrests or convictions.

b. No provider shall knowingly employ or continue in employment any person convicted of a felony or any crime involving a juvenile victim.

2. Prior to employing any person, a provider shall obtain three written references for each prospective staff member or telephone notes from contact with these references.

3. A provider shall maintain documentation of satisfactory criminal record check, as required by R.S. 15:587.1. A criminal record check shall be requested by the provider prior to the employment of any person who will have supervisory or disciplinary authority over children.

E. Orientation

1. A provider's orientation program shall provide a minimum of 24 hours of training in the following topics for all direct care staff within one week of the date of employment:

- a. philosophy, organization, program, practices and goals of the provider;
- b. instruction in the specific responsibilities of the employee's job;
- c. implementation of treatment plans;

d. the provider's emergency and safety procedures including medical emergencies;

e. detecting and reporting suspected abuse and neglect;

f. reporting critical incidents;

g. children's rights;

h. health practices;

i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

j. basic skills required to meet the health needs and problems of the children;

k. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

l. passive physical restraint which is to include a practice element in the chosen method;

m. safe administration and handling of all medications including psychotropic drugs, dosages and side effects.

2. The employee shall sign a statement of understanding certifying that such training has occurred.

3. A new employee shall not be given sole responsibility for the implementation of a child's program plan until this training is completed.

4. All new direct care employees shall receive certification in CPR and First Aid within the first 30 days of employment.

F. Training

1. A provider shall document that all support and direct care employees receive training on an annual basis in the following topics:

a. provider's administrative procedures and programmatic goals;

b. provider's emergency and safety procedures including medical emergencies;

c. children's rights;

d. detecting and reporting suspected abuse and neglect.

2. Direct care employees shall receive additional annual training to include but not be limited to the following topics:

a. implementation of treatment plans;

b. reporting critical incidents;

c. health practices;

d. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

e. basic skills required to meet the health needs and problems of the children;

f. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses;

g. passive physical restraint which is to include a practice element in the chosen method;

h. safe administration and handling of all medication including psychotropic drugs, dosages and side effects.

3. All direct care staff shall have documentation of current certification in CPR and First Aid.

G. Supervision and Evaluation

1. A provider shall complete an annual performance evaluation of all staff members. For any person who interacts with children, a provider's performance evaluation

procedures shall address the quality and nature of a staff member's relationships with children.

2. A provider shall be responsible and have the authority for the supervision of the performance of all persons involved in any service delivery/direct care to children.

H. Staffing Requirements

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

- a. administrative;
- b. fiscal;
- c. clerical;
- d. housekeeping, maintenance and food service;
- e. direct child service and treatment planning;
- f. supervisory;
- g. recordkeeping and reporting;
- h. social service;
- i. ancillary service;
- j. treatment plan management.

2. A provider shall ensure that all staff members are properly certified, licensed as legally required and appropriately qualified for their position.

a. Director: the director shall have a bachelor's degree plus one year experience relative to the population being served.

b. Treatment plan manager: the treatment plan manager shall have one of the following:

i. a bachelor's degree in a human service field plus a minimum of three years' experience with the relevant population;

ii. a master's degree in a human service field plus a minimum of one year with the relevant population.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the children as necessary to ensure the health, safety and well-being of children. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the children, and shall assure the continual safety, protection, direct care and supervision of children.

a. The provider shall have at least one adult staff present for every six children when children are present and awake.

b. The provider shall have at least one adult staff present and awake for every 12 children when children are present and asleep. In addition to required staff, at least one staff person shall be on call in case of emergency.

c. When children are at school, work or recreation outside the facility, the provider shall have a plan ensuring the availability and accessibility of direct care staff to handle emergencies or perform other necessary direct care functions.

d. At least one child care staff person for every five infants or toddlers shall be present in a residential parenting facility to provide care and supervision to children in the absence of teenage mothers.

e. A residential parenting facility shall not permit a teenage mother to provide care or supervision to any child other than her own in the absence of the child's mother or child care staff.

f. Children of staff members and children of residents living at the residential parenting facility shall be counted in all child care/staff ratios.

4. A provider shall make sufficient provisions for housekeeping and maintenance to ensure that direct service staff are able to adequately perform direct care functions.

5. A provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off duty time for live-in staff.

I. Volunteers/Student Interns. A provider that utilizes volunteers or student interns on a regular basis shall be responsible for the actions of the volunteers and interns and shall have a written plan detailing the scope of the volunteers'/interns' work with the children. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

1. have direct supervision by a paid staff member. They shall never be left alone or in charge of a child or group of children without a paid staff member present;

2. have orientation and training in the philosophy of the facility and the needs of children and methods of meeting those needs;

3. have three documented reference checks as required for regular paid staff.

J. Staff Communications. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the child. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of children, and other information requiring continued action by staff. Documentation shall be legible, signed and dated by staff.

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§1913. Quality of Life

A. Family Involvement

1. A provider shall have a written description of strategies used in the provider's program to foster ongoing positive communication and contact between children and their families, their friends and others significant in their lives.

2. A provider shall have evidence that the child's parent(s) or legal guardian(s), when appropriate, and the placing agency have been informed in writing of:

a. the philosophy and goals of the provider;

b. behavior management and disciplinary practices of the provider;

c. the provider's arrangements for children's participation in religious observances;

d. any specific treatment or treatment strategy employed by the provider to be implemented for a particular child;

e. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with children by mail or telephone;

f. a procedure for registering complaints with the provider, the contracting/funding agency and the licensing agency concerning the child's care or treatment;

g. the name, telephone number and address of a staff person who may be contacted by the family or the legally responsible person to ask questions or register concerns on an ongoing basis.

B. Telephone Communication. A provider shall allow a child to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's treatment plan. There shall be no restrictions on communication between a child and the child's legal counsel. Any restriction on telephone communication in a child's treatment plan shall be formally approved by the treatment plan manager.

C. Mail

1. A provider shall allow children to receive mail unopened, uncensored and unread by staff unless contraindicated by the child's treatment plan. This restriction shall be reviewed every 30 days by the treatment plan manager. No treatment plan shall restrict the right to write letters in privacy and to send mail unopened, uncensored and unread by any other person. Correspondence from a child's legal counsel shall not be opened, read or otherwise interfered with for any reason.

2. A provider shall ensure that children have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that children who wish to correspond with others are given any required assistance.

D. Visits. A provider shall allow a child to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the child's treatment plan.

1. Special restrictions shall be imposed only to prevent serious harm to the child. The reasons for any special restrictions shall be recorded in the child's treatment plan.

2. Special restrictions shall be reviewed every 30 days by the treatment plan manager and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's treatment plan.

3. No treatment plan shall restrict home visits without approval from the legal custodian.

E. Routines. A provider shall have a written set of daily routines for children designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to children and in the provision of adequate periods of recreation, privacy, rest and sleep.

F. Money and Personal Belongings

1. A provider shall permit and encourage a child to possess his/her own money either by giving an allowance/ by providing opportunities for paid work, unless otherwise indicated by the child's treatment plan, and reviewed every 30 days by the treatment plan manager.

a. Money earned, or received either as a gift or an allowance by a child, shall be deemed to be that child's personal property.

b. Limitations may be placed on the amount of money a child may possess or have unencumbered access to when such limitations are considered to be in the child's best interests and are duly recorded in the child's treatment plan.

c. A provider shall, as appropriate to the child's age and abilities, provide training in budgeting, shopping and money management.

d. Children's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the restitution is approved by the treatment team. The child and his/her parent(s) or legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The child and his/her parent(s) or legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages.

2. A provider shall allow a child to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the child's treatment plan. However, the provider may, as necessary, limit or supervise the use of these items while the child is in care. Where extraordinary limitations are imposed, the child shall be informed by staff of the reasons, and the decisions and reasons shall be recorded in the child's case record. Reasonable provisions shall be made for the protection of the child's property.

G. Work

1. A provider shall have a written description regarding the involvement of children in work including:

a. description of any unpaid tasks required of children;

b. description of any paid work assignments including the pay scales for such assignments;

c. description of the provider's approach to supervising work assignments;

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

2. A provider shall demonstrate that any child's work assignments are designed to provide a constructive experience are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the child's treatment plan.

3. A provider shall assign as unpaid work for children only housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated, at such rate and under such conditions as the child might reasonably be expected to receive for similar work in outside employment. The provider shall ensure that all such employment practices comply fully with state and federal laws and regulations. No child shall be employed in any industrial or hazardous occupation, nor under any hazardous conditions.

4. When a child engages in off-grounds work, the provider shall document that:

a. such work is voluntary and in accordance with the child's treatment plan;

b. the treatment plan manager approves such work;

c. the conditions and compensation of such work are in compliance with applicable state and federal laws;

d. such work does not conflict with the child's program.

H. Recreation

1. A provider shall have a written plan for insuring that a range of indoor and outdoor recreational and leisure opportunities are provided for children. Such opportunities shall be based on both the individual interests and needs of the children and the composition of the living group.

2. A provider shall be adequately staffed and have appropriate recreation spaces and facilities accessible to children. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan.

3. A provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Access to such community resources shall not be denied or infringed except as may be necessary to the child's treatment plan; and any such restrictions shall be specifically described in the treatment plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

I. Religion

1. A provider shall have a written description of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child and the child's parent(s) or legal guardian(s).

a. Every child shall be permitted to attend religious services in accordance with his/her faith. The provider shall, whenever possible, arrange transportation and encourage participation by those children who desire to participate in religious activities in the community.

b. Children shall not be forced to attend religious services.

2. When the child is a minor, the provider shall determine the wishes of the parent(s) or legal guardian(s) with regard to religious observance and instruction at the time of placement and shall make every effort to ensure that these wishes are carried out.

J. Clothing

1. A provider shall ensure that children are provided with clean, well-fitting clothing appropriate to the season and to the child's age, sex and individual needs.

2. Clothing shall be maintained in good repair.

3. All clothing provided to a child shall go with the child at discharge.

4. Clothing shall belong to the individual child and not be shared in common.

K. Independent Life Training. A provider shall have a program to ensure that children receive training in independent living skills appropriate to their age and functioning level. This program shall include instruction in:

1. hygiene and grooming;
2. family life;
3. sex education including family planning and venereal disease counseling;
4. laundry and maintenance of clothing;
5. appropriate social skills;
6. housekeeping;
7. use of transportation;
8. budgeting and shopping;
9. cooking;
10. punctuality, attendance and other employment related matters;

11. use of recreation and leisure time.

L. Food Service

1. A provider shall ensure that a child is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council.

a. Menus shall be written and approved annually in writing by a registered dietician.

b. A provider shall develop written menus at least one week in advance.

c. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions.

2. A person designated by the administrator/director shall be responsible for the total food service of the provider. This person shall be responsible for:

- a. initiating food orders or requisitions;
- b. establishing specifications for food purchases and insuring that such specifications are met;
- c. storing and handling of food;
- d. food preparation;
- e. food serving;
- f. orientation, training and supervision of food service personnel;
- g. maintaining a current list of children with special nutritional needs;
- h. having an effective method of recording and transmitting diet orders and changes;
- i. recording information in the child's record relating to special nutritional needs;
- j. providing information on children's diets to staff.

3. A provider shall ensure that any modified diet for a child shall be:

- a. prescribed by the child's physician and treatment plan with a record of the prescription kept on file;
- b. planned, prepared and served by persons who have received instruction from the registered dietician who has approved the menu for the modified diet.

4. A provider shall ensure that a child is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day.

5. The provider shall ensure that the food provided to a child in care by the provider is in accord with his/her religious beliefs.

6. No child shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the child's file.

7. When meals are provided to staff, a provider shall ensure that staff members eat the same food served to children in care, unless special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to children only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

9. A provider shall ensure that food served to a child and not consumed is discarded.

10. A provider shall show evidence of effective procedures for cleaning all equipment and work areas.

M. Professional and Special Programs and Services

1. A provider shall ensure services in the following areas to meet the specialized needs of the child:

- a. physical/occupational therapy;
- b. speech pathology and audiology;
- c. psychological and psychiatric services;
- d. social work services;
- e. individual, group and family counseling.

2. A provider shall ensure that all providers of professional and special services:

- a. record all significant contacts with the child;
- b. provide quarterly written summaries of the child's response to the service, the child's current status relative to the service and the child's progress;
- c. participate, as appropriate, in the development, implementation and review of treatment plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- d. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement treatment plans;
- e. provide child assessments/evaluations as needed for treatment plan development and revision.

3. A provider shall ensure that any provider of professional or special services (internal or external to the agency) meets the following:

- a. adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;
- b. adequate space, facilities and privacy;
- c. appropriate equipment;
- d. adequate supplies;
- e. appropriate resources.

N. Health Care. The provider shall have a written plan for providing preventive, routine and emergency medical and dental care for children and shall show evidence of access to the resources outlined in the plan. This plan shall include:

1. ongoing appraisal of the general health of each child;
2. provision of health education, as appropriate;
3. provisions for keeping children's immunizations current;
4. approaches that ensure that any medical treatment administered will be explained to the child in language suitable to his/her age and understanding;
5. an ongoing relationship with a licensed physician, dentist and pharmacist to advise the provider concerning medical and dental care;
6. availability of a physician on a 24-hour, seven days a week basis;
7. reporting of communicable diseases and infections in accordance with law.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each child within a week of admission unless the child has received such an examination within 30 days before admission and the results of this examination are available to the provider. This examination shall include:

- a. an examination of the child for physical injury and disease;
- b. vision, hearing and speech screening;
- c. a current assessment of the child's general health.

2. The provider shall arrange an annual physical examination of all children.

3. Whenever indicated, the child shall be referred to an appropriate medical specialist for either further assessment or treatment, including gynecological services for female children.

4. A provider shall ensure that a child receives timely, competent medical care when he/she is ill or injured. A provider shall notify the child's parent or legal guardian, verbally /in writing, within 24 hours of a child's illness or injury that requires treatment from a physician or hospital.

5. Records of all medical examinations, follow-ups and treatment together with copies of all notices to parent(s) or guardian(s) shall be kept in the child's file.

P. Dental Care

1. A provider shall have an organized system for providing comprehensive dental services for all children that shall include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven days a week basis by a licensed dentist
- c. a recall system specified by the dentist, but at least annually.

2. A provider shall arrange a dental exam for each child within 90 days of admission unless the child has received such an examination within six months before admission and the results of this examination are available to the provider.

3. Records of all dental examinations, follow-ups and treatment shall be documented in the child's file.

4. Provider shall notify the child's parent(s) or legal guardian(s), verbally/in writing, within 24 hours when a child requires or receives dental treatment. The notification shall include the nature of the dental condition and any treatment required.

Q. Immunizations. Within 30 days of admission, a provider shall obtain documentation of a child's immunization history, insuring the child has received all appropriate immunizations and booster shots that are required by the Office of Public Health.

R. Medications

1. A provider shall have written policies and procedures that govern the safe administration and handling of all drugs as appropriate to the provider.

2. A provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

3. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

4. A provider shall have a written policy for handling medication taken from the facility by children on pass.

5. A provider shall ensure that any medication given to a child for therapeutic and medical purposes is in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. There shall be standing orders, signed by the physician, for nonprescription drugs with directions from the physician indicating when he/she is to be contacted. Standing orders shall be updated annually by the physician.

c. Copies of all written orders shall be kept in the child's file.

d. Medication shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

6. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the child's file and the parent(s) or legal guardian(s) notified in writing within 24 hours.

7. Each drug shall be identified up to the point of administration.

8. Discontinued and outdated drugs and containers with worn, illegible or missing labels shall be properly disposed of.

9. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

a. Drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations.

b. All drugs, including refrigerated drugs, shall be kept under lock and key.

10. A provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications including:

a. a description of procedures to ensure that medications are used as ordered by the physician for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the child unobtainable through less restrictive measures;

c. a description of procedures to ensure continual physician review of medication and discontinuation of medication when there are no demonstrable benefits to the child;

d. a description of an ongoing program to inform children, staff, and where appropriate, children's parent(s) or legal guardian(s) on the potential benefits and negative side-effects of medication and to involve children and, where appropriate, their parent(s) or legal guardian(s) in decisions concerning medication;

e. no child shall be given any psychotropic medication except on written authorization from a physician,

a copy of which shall be kept in the child's file. Such written authorizations shall be reviewed and renewed at least every 90 days.

S. Grievance Procedure for Children

1. A provider shall have a written grievance procedure for children designed to allow children to make complaints without fear of retaliation.

2. The provider shall document that the child and the child's parent(s) or legal guardian(s) are aware of and understand the grievance procedure.

3. The provider shall document the resolution of the grievance in the child's record.

T. Abuse and Neglect

1. A provider shall have comprehensive written procedures concerning child abuse including:

a. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the Office of Community Services Child Protection Agency and applicable laws;

b. a procedure for insuring that the child is protected from potential harassment during the investigation;

c. a procedure for disciplining staff members who abuse or neglect children;

d. a procedure for insuring that the staff member involved does not work directly with the child involved or any other child in the program until the investigation is complete.

2. Any case of suspected child abuse or neglect shall be reported immediately to the Bureau of Licensing and other

appropriate authorities, according to state law. Written notification shall follow within 24 hours. The child's record shall include:

a. date and time the suspected abuse or neglect occurred;

b. description of the incident;

c. action taken as a result of the incident; and

d. name of the person to whom the report was made.

U. Reports on Critical Incidents

1. Any serious incident, accident or injury to a child, elopements, hospitalizations, overnight absence from the facility without permission, and any other unexplained absence shall be reported to the parent/legal guardian/placing agency within 24 hours. The child's record shall contain:

a. the date and time the incident occurred;

b. a brief description of the incident;

c. the action taken as a result of the incident;

d. the name of the person who completed the report; and the names of the person(s) who witnessed the incident;

e. the name of the person who made the report to the parent/legal guardian or placing agency; and

f. the name of the person to whom the report was made.

2. Any incident which involves the death of a child or any serious threat to the child's health, safety or well-being shall be reported to the parent/legal guardian/placing agency, Bureau of Licensing and other appropriate authorities. Written notification shall follow within 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2137 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2706 (December 2007).

§1915. Direct Service Management

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria that shall include the following information:

- a. policies and procedures related to intake;
- b. the age and sex of children served;
- c. the needs, problems, situations or patterns best addressed by the provider's program;
- d. any other criteria for admission;
- e. criteria for discharge;
- f. any replacement requirements on the child, the legally responsible person, DSS or other involved agencies;
- g. procedures for insuring that placement within the program is the least restrictive alternative, appropriate to meet the child's needs.

2. A provider shall only accept children for placement from the parent(s), legal guardian(s), custodial agency or a court of competent jurisdiction.

3. The written description of admission policies and criteria shall be available to the parent(s) or legal guardian(s) for any child referred for placement.

4. A provider shall not admit more children into care than the number specified on the provider's license.

5. A provider shall not accept any child for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall not admit any child into care whose presence will be seriously damaging to the ongoing functioning of the provider or to children already in care.

7. When refusing admission to a child, a provider shall notify the referring agency of the reason for refusal of admission in writing. If the child was referred by his/her parent(s) or legal guardian(s) he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal shall be kept in the provider's administrative file.

8. A provider shall ensure that the child, the child's parent(s) or legal guardian(s) and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

9. No child shall be admitted unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children and the Interstate Compact on Mental Health. Proof of such prior compliance shall be obtained prior to admission and shall be kept in the child's file.

B. Intake Evaluation

1. The provider shall accept a child into care only when a current, comprehensive intake evaluation/assessment, not over one year old, has been completed including, health and family history, medical, social, psychological and, as appropriate, developmental, vocational or educational assessment. This evaluation shall contain evidence that a determination has been made that the child

cannot be maintained in a least restrictive environment within the community.

2. In emergency situations necessitating immediate placement into care, the provider shall gather as much information as possible about the child to be admitted and the circumstances requiring placement, formalize this in an "emergency admission note" within two days of admission and then proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Children. The provider shall, consistent with the child's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the child referred for placement with an explanation of the provider's criteria for successful participation in, and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in the child's record.

2. The placement agreement shall include, by reference or attachment, at least the following:

- a. discussion of the child's and the family's expectations regarding family contact and involvement, the nature and goals of care including any specialized services to be provided, the religious orientation and practices of the child and the anticipated discharge date;
- b. a delineation of the respective roles and responsibilities of all agencies and persons involved with the child and his/her family;
- c. authorization to care for the child;
- d. authorization to obtain medical care for the child;
- e. arrangements regarding visits, vacation, mail, gifts and telephone calls;
- f. arrangements regarding the nature and frequency of reports to, and meetings involving, the legally responsible person and referring agency;
- g. provision for notification of the child's parent(s) or legal guardian(s) in the event of unauthorized absence, illness, accident or any other significant event regarding the child.

3. The provider shall ensure that an assessment of each child is conducted upon placement for illness, fever, rashes, bruises and injury. The child shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the child's record.

4. The provider shall assign a staff member to orient the child and, where available, the family to life at the facility.

E. Discharge

1. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a child or other children might be endangered by the child's further placement at the agency. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

2. When a child is discharged, the provider shall compile a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the child's record and shall include:

- a. the name and home address of the child and, where appropriate, the child's parent(s) or legal guardian(s);
- b. the name, address and telephone number of the provider;
- c. the reason for discharge and, if due to child's unsuitability for provider's program, actions provider undertook to maintain placement;
- d. a summary of services provided during care including medical, dental and health services;
- e. a summary of the child's progress and accomplishments during care;
- f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:2141 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2711 (December 2007).

§1917. Treatment Planning

A. The Treatment Plan Manager. A provider shall ensure that a qualified treatment plan manager is assigned to each child and given responsibility for and authority over:

- 1. supervision of the implementation of the child's treatment plan;
- 2. integration of the various aspects of the child's program;
- 3. recording of the child's progress as measured by objective indicators and making appropriate changes/modifications;
- 4. reviewing and approving quarterly status reports of the successes and failures of the child's program, including the child's educational program, with recommendations for any modifications deemed necessary. These reports may be prepared by designated staff, but the treatment plan manager shall also sign and date the report;
- 5. insuring the timely release, whenever appropriate, of the child to a least restrictive setting;
- 6. monitoring any extraordinary restriction of the child's freedom including use of any form of restraint, any special restriction on a child's communication with others and any behavior management plan;
- 7. asserting and safeguarding the human and civil rights of children and their families and fostering the human dignity and personal worth of each child;
- 8. helping the child and family to consider alternative services and make a responsible choice regarding whether and when placement is indicated during the evaluation process, that may or may not lead to admission;
- 9. serving as liaison between the child, provider, family and community during the child's admission to and residence in the facility, or while the child is receiving services from the provider in order to:
 - a. assist staff in understanding the needs of the child and his/her family in relation to each other;
 - b. assist staff in understanding social factors in the child's day-to-day behavior, including staff/child relationships;
 - c. assist staff in preparing the child for changes in his/her living situation;

- d. help the family to develop constructive and personally meaningful ways to support the child's experience in the facility, through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate;
- e. help the family to participate in planning for the child's return to home or other community placement.

B. The Treatment Plan

1. A provider shall ensure that a child has a current, (within the prior 12 months) comprehensive, written psychiatric/psychological, social and, as appropriate, educational assessment. This assessment shall be the basis of a comprehensive, time limited, goal oriented individual treatment plan addressing the needs identified by the assessment within 30 days of admission.

- a. The assessment shall identify the child's strengths and needs, establish priorities to assist in the development of an appropriate plan and conclude with recommendations concerning approaches and techniques to be used.
- b. All methods used in assessing a child shall be appropriate considering the child's age, development and cultural background and dominant language or mode of communication.

2. Individual treatment plans shall be developed by an interdisciplinary team including the treatment plan manager, representatives of the direct service staff working with the child on a daily basis, representatives of other placing/funding agencies, the child, the child's parent(s) or legal guardian(s) and any other person(s) significantly involved in the child's care on an ongoing basis.

3. The provider shall document that, where applicable, the designated representative of the placing agency and the child's parent or legal guardian have been invited to participate in the planning process. When they do not participate, the provider shall document the reasons for nonparticipation.

4. A provider shall include in a child's treatment plan any community resources or programs providing treatment or training to that child, and shall involve representatives of such services and programs in the treatment planning process whenever feasible and appropriate. Any community resource or program involved in a treatment plan shall be appropriately licensed or shall be a part of an approved school program.

5. The completed treatment plan shall be signed by all team participants.

6. A provider shall complete a treatment plan at least annually and shall evaluate the degree to which the goals have been achieved.

7. A provider shall ensure that all persons working directly with the child are appropriately informed of the treatment plan and have access to information from the child's records that is necessary for effective performance of the employee's assigned tasks.

8. A child's treatment plan shall not be composed solely of activities and programs provided by agencies and organizations external to the provider.

9. A provider shall ensure that the treatment plan for each child includes the following components:

- a. the findings of the assessment. The assessment shall describe the severity, duration and frequency of the targeted behavior;

- b. a statement of goals to be achieved for the child and his/her family;
- c. plan for fostering positive family relationships for the child, when appropriate;
- d. schedule of the daily activities including training/education for children and recreation to be pursued by the program staff and the child in attempting to achieve the stated goals;
- e. any specific behavior management plan;
- f. any specialized services that will be provided directly or arranged for, stated in specific behavioral terms that permit the problems to be assessed, and methods for insuring their proper integration with the child's ongoing program activities;
- g. overall goals and specific objectives that are time limited;
- h. methods for evaluating the child's progress;
- i. any restriction to "children's rights" deemed necessary to the child's individual treatment plan. Any such restriction shall be expressly stated in the treatment plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the treatment plan, and the reasons less restrictive methods cannot be employed;
- j. goals and preliminary plans for discharge;
- k. identification of each person responsible for implementing or coordinating implementation of the plan.

C. Education

1. A provider shall ensure that each child has access to appropriate educational services consistent with the child's abilities and need, taking into account his/her age and level of functioning.

2. All children of school age shall be enrolled in and attending a school program approved by the Department of Education or an alternative educational program approved by the local school board.

3. The provider shall notify both the placing agency and the child's parent(s) or legal guardian(s) verbally/in writing within 24 hours of any truancy, expulsion or suspension from school. Notification shall be documented in the child's record.

D. Reports. The chief administrator of a provider or his/her designee shall report in writing to the child's parent or legal guardian at least annually, or as otherwise required by law, with regard to the child's progress with reference to the goals and objectives in the treatment plan. This report shall include a description of the child's medical condition.

E. Arrangement of Children into Groups

1. A provider shall arrange children into groups that effectively address the needs of children.

2. All children shall have privacy during periods of relative quiet and inactivity.

3. All children shall have an opportunity to build relationships within small groups.

4. Children shall be involved in decision making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

F. Behavior Management

1. The provider shall have a written description of the methods of behavior management to be used on facility-wide level, insuring that procedures begin with the least restrictive, most positive measures and follow a hierarchy of acceptable measures. This description shall be provided to all provider staff and shall include:

- a. appropriate and inappropriate behaviors of children;
- b. consequences of inappropriate behaviors of children;
- c. the phases of behavior escalation and appropriate intervention methods to be used at each level.

2. Use of any methods other than those outlined in the written description required above is prohibited unless addressed in an individual behavior management plan approved by the treatment plan manager.

G. House Rules and Regulations. A provider shall have a clearly written list of rules and regulations governing conduct for children in care and shall document that these rules and regulations are made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s).

H. Limitations on Potentially Harmful Responses. A provider shall have a written list of prohibited responses to children by staff members and shall document that this list is made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s). This list shall include the following prohibited responses:

- 1. any type of physical hitting or other painful physical contact except as required for medical, dental or first aid procedures necessary to preserve the child's life or health;
- 2. requiring a child to take an extremely uncomfortable position;
- 3. verbal abuse, ridicule or humiliation;
- 4. withholding of a meal, except under a physician's order;
- 5. denial of sufficient sleep, except under a physician's order;
- 6. requiring a child to remain silent for a long period of time;
- 7. denial of shelter, warmth, clothing or bedding;
- 8. assignment of harsh physical work.

I. Limitations on Punishments

1. A provider shall have a written list of prohibited responses to children by staff when such responses are used as punishments and shall document that this list is made available to each staff member, child and, where appropriate, the child's parent(s) or legal guardian(s). This list shall include the following prohibited responses:

- a. physical exercise or repeated physical motions;
- b. excessive denial of usual services;
- c. denial of visiting or communication with family or legal guardian;
- d. extensive withholding of emotional response;
- e. any other cruel and unusual punishment.

2. A provider shall not punish groups of children for actions committed by an individual.

3. Children shall neither punish nor supervise other children except as part of an organized therapeutic self government program that is conducted in accordance with written policy and is supervised directly by staff. Such programs shall not be in conflict with all regulations regarding behavior management.

4. Punishment shall not be administered by any persons who are not known to the child.

J. Restraints

1. A provider shall not use any form of mechanical, physical or chemical restraint. Passive physical restraint shall only be utilized when the child's behaviors escalate to a level of possibly harming himself/herself or others.

2. Passive physical restraints are only to be performed by two trained staff personnel in accordance with an approved curriculum. A single person restraint can be initiated in a life threatening crisis with support staff in close proximity to provide assistance.

K. Time-Out Procedures

1. A provider using time-out rooms for seclusion of children for brief periods shall have a written policy governing the use of time-out procedures. This policy shall ensure that:

- a. the room shall be unlocked;
- b. time-out procedures are used only when less restrictive measures have been used without effect; written documentation of less restrictive measures used shall be required;
- c. emergency use of time-out shall be approved by the treatment plan manager or administrator for a period not to exceed one hour;
- d. time-out used as an individual behavior management plan shall be part of the overall plan of treatment;
- e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed eight hours;
- f. when a child is in time-out, a staff member shall exercise direct physical supervision of the child at all times;
- g. a child in time-out shall not be denied access to bathroom facilities, water or meals.

2. Copies of the behavior management policy, the prohibited response policy and the punishment policy, including restraint prohibitions and time out procedures, shall be provided in triplicate upon admission. The child and parent(s) or legal guardian(s) shall sign all three copies. The child and parent(s) or legal guardian(s) shall retain one copy each and the provider shall retain the other copy in the child's record.

3. Copies of the behavior management policy, the prohibited response policy and the punishment policy, including restraint prohibitions and time out procedures, shall be provided in duplicate to each new employee upon hiring. The employee shall sign both copies. The employee shall retain one copy and the provider shall retain the other copy in the employee's personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

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of Licensing, LR 24:2143 (November 1998), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2712 (December 2007).

§1919. Physical Environment

A. Exterior Space

1. A provider shall maintain all areas of the facility accessible to children in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. A provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect children.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of children.

3. Children shall have access to safe, suitable outdoor recreational space and age appropriate equipment.

4. A provider shall have at least 75 square feet of accessible exterior space for each child. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

B. Interior Space

1. The arrangement, appearance and furnishing of all interior areas of the facility shall be similar to those of a normal family home in the community.

2. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the facility.

3. Each living unit of a facility shall contain a space for the free and informal use of children. This space shall be constructed and equipped in a manner in keeping with the programmatic goals of the provider.

4. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

5. A facility shall have an appropriate variety of interior recreational spaces.

C. Dining Areas

1. A facility shall have dining areas that permit children, staff and guests to eat together in small groups.

2. A facility shall have dining areas that are clean, well lit, ventilated and attractively furnished.

D. Sleeping Accommodations

1. A provider shall ensure that each single occupancy bedroom space has a floor area of at least 80 square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

2. A provider shall not use a room with a ceiling height of less than seven feet six inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least seven feet six inches are allowed in determining usable space.

3. A provider shall not permit more than four children to occupy a designated bedroom space.

4. No child over the age of 5 years shall occupy a bedroom with a member of the opposite sex.

5. A provider shall not use any room that does not have a window as a bedroom space.

6. Each child shall have his/her own bed. A child's bed shall be no shorter than the child's height and no less than 30 inches wide and shall have a clean, comfortable, nontoxic fire retardant mattress.

7. A provider shall ensure that sheets, pillow, bedspread and blankets are provided for each child.

a. Enuretic children shall have mattresses with moisture resistant covers.

b. Sheets and pillow cases shall be changed at least weekly, but shall be changed more frequently if necessary.

8. Each child shall have a solidly constructed bed. Cots or other portable beds are not to be used on a routine basis.

9. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

10. Each child shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the child.

11. Each child shall have his/her own designated area for rest and sleep.

12. The decoration of sleeping areas for children shall allow some scope for the personal tastes and expressions of the children.

E. Bathrooms

1. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to child care needs.

a. Bathrooms shall be so placed as to allow access without disturbing other children during sleeping hours.

b. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene unless children are individually given such items. Children shall be provided individual items such as hair brushes, toothbrushes, razors, etc.

c. Tubs and showers shall have slip proof surfaces.

2. A facility shall have toilets and baths or showers that allow for individual privacy unless children in care require assistance.

3. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water.

4. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the children's basic hygienic needs.

5. A provider shall ensure that bathrooms are equipped to facilitate maximum self help by children. Bathrooms shall be large enough to permit staff assistance of children if necessary.

6. Toilets, wash basins and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation,

storage, serving and clean up of all meals for all of the children and staff regularly served. All equipment shall be maintained in proper working order.

2. A provider shall not use disposable dinnerware at meals on a regular basis unless the facility documents that such dinnerware is necessary to protect the health or safety of children in care.

3. A provider shall ensure that all dishes, cups and glasses used by children in care are free from chips, cracks or other defects and are in sufficient number to accommodate all the children.

4. Animals shall not be permitted in food storage, preparation and dining areas.

G. Laundry Space. A provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

I. Administrative and Counseling Space

1. A provider shall provide a space that is distinct from children's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. A provider shall have a designated space to allow private discussions and counseling sessions between individual children and staff.

J. Furnishings

1. A provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of children shall be appropriately designed to suit the size and capabilities of these children.

2. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

K. Doors and Windows

1. A provider shall provide insect screening for all windows that can be opened. This screening shall be readily removable in emergencies and shall be in good repair.

2. A provider shall ensure that all closets, bedrooms and bathrooms with doors can be readily opened from both sides.

L. Storage

1. A provider shall ensure that there are sufficient and appropriate storage facilities.

2. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

2. A provider shall ensure that any room, corridor or stairway within a facility shall be well lit.

3. A provider shall ensure that exterior areas are well lit at night.

N. Heat

1. A provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of children.

2. A provider shall not use open flame heating equipment.

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§1921. Emergency and Safety

A. Emergency and Safety Plan. A provider shall have a written overall plan of emergency and safety procedures that shall provide for the following:

1. the evacuation of children to safe or sheltered areas;
2. training of staff and, as appropriate, children in preventing, reporting and responding to fires and other emergencies;
3. an on-going safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies;
4. training of personnel in their emergency duties and the use of any fire fighting or other emergency equipment in their immediate work areas.

B. Drills

1. A provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day.
2. A provider shall make every effort to ensure that staff and children recognize the nature and importance of fire drills.

C. Notification of Emergencies. A provider shall immediately notify the Bureau of Licensing and other appropriate agencies of any fire, disaster or other emergency that may present a danger to children or require their evacuation from the facility.

D. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.
2. The provider shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

E. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.
2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of children, staff and visitors.
3. A provider shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport children.
4. A provider shall prohibit the use of candles in sleeping areas of the children.
5. Power-driven equipment used by a provider shall be safe, and properly maintained. Such equipment shall be used by children only under the direct supervision of a staff member and according to state law.
6. A provider shall have procedures to prevent insect and rodent infestation.
7. A provider shall allow children to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Community Water Safety or equivalent.

F. Transportation

1. The provider shall ensure that each child is provided with the transportation necessary for implementation of the child's treatment plan.

2. The provider shall have means of transporting children in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting children, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law and carries current liability insurance.

4. Any staff member of the provider, or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting children shall be currently licensed.

5. The provider shall not allow the number of persons in any vehicle used to transport children to exceed the number of available seats in the vehicle. The provider shall not transport children in the back or the bed of a truck.

6. The provider shall ensure that children being transported in the vehicle are properly supervised while in the vehicle and during the trip.

7. All vehicles used for the transportation of children shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

8. Vehicles used to transport children shall not be identified in a manner that may embarrass or in any way produce notoriety for children.

9. The provider shall ascertain the nature of any need or problem of a child that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting children.

10. The following additional arrangements are required for a provider serving handicapped, nonambulatory children:

- a. a ramp device to permit entry and exit of a child from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped children. A mechanical lift may be utilized if a ramp is also available in case of emergency;
- b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;
- c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

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§1923. Therapeutic Wilderness Program

A. The Therapeutic Wilderness Program shall meet all of the following standards in addition to the core requirements except §§1919 and 1921 (Physical Environment and Emergency and Safety) and any specific exceptions as noted in the module.

B. Staff Qualifications

1. Administrator

a. The administrator shall be selected by the board of directors and shall be accountable to the board of directors for satisfactory performance of duties.

b. The administrator shall be a graduate of a four-year college or university and shall hold at least a bachelor's degree in a human service field.

c. The administrator shall have at least 10 years' verifiable experience in the field of human services.

d. The administrator shall have responsibility for oversight and accountability for the overall program.

2. Director

a. The director shall answer to the administrator for satisfactory performance of duties.

b. The director shall hold at least a bachelor's degree in a human service field.

c. The director shall have at least five years' verifiable experience in a human services field or at least three years' progressively responsible experience in a program for at-risk or troubled youth and in the area of therapeutic wilderness programs.

3. Treatment Plan Manager

a. The treatment plan manager shall be licensed/certified in one of the following fields:

i. medicine;

ii. psychology;

iii. psychiatry;

iv. social work;

v. professional counseling.

b. The treatment plan manager shall have at least three years' experience in the field of therapeutic programming.

C. Administrative Area

1. There shall be permanent buildings including, but not limited to the following:

a. an administrative area with adequate space for administrative staff, counseling staff, clerical staff, supplies, equipment and records;

b. infirmary space that is separate, private, accessible to a bathroom, equipped with adequate beds, medication storage and supplies. This space shall be used for medical purposes only;

c. laundry space supplied with hot and cold running water under pressure, washers, dryers and supplies. The use of commercial equipment is recommended. If household equipment is used, there shall be a ratio of one washer and dryer for every 15 children. Laundry service may be contracted from a commercial service;

d. an indoor food service and dining area, that meets the requirements of the Office of Public Health, Sanitarian Services. This shall include appropriate food storage areas;

e. a shower or bathing area designed to provide adequate hot water and showers. Separate shower facilities shall be provided for co-ed facilities. All showers or bathing facilities shall meet Office of Public Health, Sanitarian Services requirements;

f. adequate toilet and hand washing facilities. All toilets and hand washing facilities shall meet Office of Public Health, Sanitarian Services requirements;

g. adequate indoor space and supplies for the educational program to meet the needs of the children when the wilderness program is conducted during regular school months/hours. Rooms shall provide at least 25 square feet of

floor space per child and be equipped with chairs, tables/desks to accommodate the educational component of the program;

h. adequate storage space for equipment, recreational supplies, off-season clothing and bedding, tools and other supplies;

i. if hazardous materials are stored, the area of storage shall be locked to prevent access by children;

ii. children's personal belongings that require storage shall be inventoried and placed under lock until discharge;

i. adequate space for children to seek shelter during hazardous weather conditions or emergencies. Buildings used for sleeping during adverse weather shall contain at least 35 square feet per child and be maintained at a comfortable temperature.

2. All permanent buildings shall be adequately maintained to provide for the safety and well-being of the children.

3. All areas shall be free of debris, noxious plants and uncontrolled weeds and brush.

4. All walkways and heavily traveled common areas shall be safe and adequately maintained.

5. Adequate lighting for walkways shall be provided after dark.

6. Areas shall be selected that prevent offensive conditions, safety hazards and provide adequate drainage.

D. Campsites. Campsites may consist of tents, tepees, cabins, wagon trains, or other nonpermanent structures.

1. Campsites shall be separated from the central administrative areas by a maximum of 1.25 miles if the children walk back and forth to the administrative areas. Vehicle transportation shall be provided if the campsite is located over 1.25 miles from the administrative areas.

2. Sleeping areas shall be:

a. structurally sound, sanitary, in good repair and provide protection against insects and the elements;

b. constructed of durable, flame-resistant, waterproof material, whether it is tents, tepees, wagons, etc.;

c. all tents or tepees used in residential campsites shall be on a raised platform and constructed to prevent the entrance of ground and surface water;

d. the sleeping area shall be protected by screening or netting against admittance of flies and mosquitoes;

e. the area shall provide for cross-ventilation;

f. males and females shall not sleep in the same sleeping unit;

g. same sex counselors are permitted to sleep in housing with children;

h. each temporary sleeping unit shall be limited to no more than 12 persons;

i. all heating equipment shall be maintained and operated in a safe manner to eliminate the possibility of fire and meet requirements of the State Fire Marshal, Code Enforcement and Building Safety;

j. there shall be adequate storage space for each child's personal belongings.

3. Bedding

a. Separate suitable beds shall be provided for each child.

b. All bedding shall be clean and sanitary.

c. Waterproof coverings, in good repair, shall be on all mattresses/pads.

d. All mattresses shall be covered by a protective mattress cover or pad.

e. Linens shall be changed as often as necessary for cleanliness and sanitation, but not less than weekly.

f. There shall be at least six feet between heads of sleepers.

g. There shall be at least 36 inches between sides of beds.

h. Triple bunk beds shall not be used.

i. If bunk beds are used, the top bunk shall have sufficient clearance between the bunk and the ceiling to allow the child to sit up in bed.

j. If sleeping bags are used, they shall:

i. be placed on a mattress or a plastic-covered foam rubber pad;

ii. be flame resistant;

iii. be cleaned monthly or as often as necessary to maintain sanitary conditions;

iv. be of sufficient weight and construction to maintain children's comfort in the climate and conditions in which the sleeping bag is used, according to manufacturer's label.

k. Sleeping bags shall be aired every five days.

l. If sleeping bags are used, each child shall be provided with his/her own bag that shall be given to the child upon discharge.

4. Cooking and Eating Areas in Campsite

a. All meals at campsite shall be coordinated with all meals for the day so as to meet the daily nutritional needs of the children as outlined by the Food Nutrition Board of the National Research Council.

b. The eating area shall have flooring that is constructed to prevent the entrance of ground/surface water.

c. The eating and cooking area shall have a covering sufficient to protect against rain and the elements.

d. A table and benches are required for the eating area.

e. The cooking area shall be located so that ground and surface water cannot accumulate or enter.

f. The working area shall have adequate sanitary storage area for cooking utensils, food and cleaning supplies. Cleaning supplies shall be stored separately from food.

g. There shall be appropriate materials for handling hot cookware and for cleaning all cooking and eating utensils.

h. Appropriate cookware and dining utensils for the preparation and consumption of food shall be provided to meet the needs of the children.

i. There shall be a sanitary surface area for food preparation.

j. Proper food sanitation practices shall be written and posted in the cooking area.

5. Toilet facilities shall be provided and shall:

a. include privies, water closets, latrines, chemical toilets, etc.;

b. be in compliance with Office of Public Health, Sanitarian Services requirements and constructed, located and maintained so as to prevent any nuisance or public health hazard;

c. have toilet tissue at each toilet seat at all times;

d. have soap, towels and clean water for purposes of hand washing;

e. allow for individual privacy unless children in care require assistance;

f. be separate in co-ed facilities;

g. be well lit and ventilated;

h. be kept clean and sanitary.

6. A sheltered area, with adequate lighting, shall be provided for personal and recreational activities for the residents. The eating area may serve in this capacity.

7. A personal hygiene area shall be provided with an adequate supply of clean water, soap and towels. Wash basins may be used.

8. An appropriate storage area for tools shall be provided. Tools posing a threat to safety shall be kept in a locked area.

9. A bulletin board shall be erected at each campsite.

10. A fire safety station with adequate fire extinguishers, sand, water, shovels, signaling devices and posted procedures shall be maintained at each campsite within easy access of each tent, tepee or other sleeping area and food preparation area.

11. There shall be potable water at each campsite. The supply shall be adequate for hand washing, cooking and drinking.

12. An emergency access road shall be constructed to each campsite.

13. Durable trash and garbage containers of adequate size with tight fitting lids shall be provided at each campsite.

14. Counselors' sleeping areas shall be located so that no child's sleeping area will be out of calling range.

15. A well equipped Red Cross standard or equivalent first aid kit shall be maintained with each group.

E. Activity and Equipment Requirements

1. The provider shall assure that all equipment used in the program is appropriate for its purposes and is properly maintained.

a. All sports and outdoor equipment used in the program shall be selected on the basis of safety factors and shall be regularly checked or tested to ensure that it is up to the provider's standards that comply at a minimum with applicable national standards for the equipment in use. Materials or equipment that do not meet the standards shall be repaired or discarded promptly, as appropriate.

b. When participants or personnel wish to or are asked to provide their own equipment, the provider shall require that such equipment meet the required standards or provide appropriate equipment as a substitute.

c. The use of chainsaws by clients is prohibited.

d. All firearms are prohibited.

2. A provider engaging in any of the following activities shall do so with appropriate regard for associated safety and technical requirements:

- a. initiative and problem solving activities;
- b. orienting;
- c. hiking or backpacking;
- d. camping;
- e. group expeditions;
- f. community service;
- g. environmental projects;
- h. running;
- i. bicycle touring;
- j. remote travel;
- k. flat water canoeing or flat water rafting;
- l. sailing;
- m. ropes courses, climbing towers and artificial wall climbing;
- n. other activities with a limited degree of perceived or actual risk for which its staff are appropriately prepared and trained.

3. Prior to initiation of an activity:

a. staff are familiarized with the terrain site or waterways that are to be utilized and have direct experience and up-to-date information about the conditions that are likely to be encountered;

b. participants are provided with complete information about boundaries of the activity, rendezvous times and places and emergency procedures.

4. Terrain, water temperature and other environmental conditions involved in an activity are determined to be appropriate to the skill levels in the group and to contain no unusual hazards or threats.

5. When the activity involves travel or movement such as hiking, running, climbing, canoeing, bicycle touring or similar pursuits, participants are instructed in proper techniques, pacing, need for fluids and sunscreen, appropriate footwear and equipment and potential hazards that should be anticipated.

6. The pace set in a group shall be related to the capacities of the least able or fit member of the group, take into account previous illness or injury and be designed to prevent the occurrence of accidents or illness.

7. Repair kits for equipment used, location devices and reflectors for any dusk or nighttime activity and other protective gear or equipment are provided as appropriate to the activity involved. Personal flotation devices (Type III) shall be worn at all times when on the water.

8. There shall be clear guidelines for the use of fire and governing the uses and storage of any potentially hazardous material or equipment such as propane, axes, knives, etc. in which personnel and participants are trained.

9. Techniques and skills needed for an activity shall be taught progressively. Less skilled participants shall be appropriately supported and supervised. No groups shall

travel or engage in an activity without supervision with the exception of planned, unaccompanied activities that are part of the program design.

10. Ropes courses, alpine or climbing towers and artificial wall climbing program components shall meet the following requirements:

a. the facilities and equipment used in the program shall be constructed by or under the supervision of recognized experts in the field;

b. staff shall have been trained by recognized experts in the field and have working knowledge of ropes course and climbing equipment elements, technology and

construction and accepted standard usage and inspection of same;

c. there shall be appropriate inspection and safety procedures in place and implemented.

F. Health and Safety

1. General Health Practices

a. The provider shall ensure that each child has a health examination, performed prior to participation in program activities, by a licensed physician that documents:

i. the child can perform each type of adventure activity that he/she will be asked to do;

ii. receipt of a tetanus shot;

iii. notation of asthma, allergies/dietary needs; and

iv. notation of whether the child is on medication that would require the child to avoid the sun/to take other special precautions.

b. The provider shall develop and give to each staff member a written policy for emergency procedures.

2. Emergency and Safety Procedures

a. The provider shall develop and maintain on file a written list of all activities in which children will participate.

b. The provider shall have a written plan for each activity. This plan shall include the following:

i. a description of the activity;

ii. staff requirements;

iii. children's requirements for participation;

iv. equipment necessary for the activity;

v. safety equipment;

vi. emergency and evacuation procedures;

vii. location for activity;

viii. a written plan for search and rescue procedures.

c. The provider shall have a written plan for fire safety and other emergencies that includes the following:

i. provisions for training all staff in fire safety procedures and in the use of equipment and techniques for fighting small fires. Such training shall be documented;

ii. name(s), address(es) and telephone number(s) of local rescue squads, law enforcement agencies and hospitals and guidelines for when and how to contact them.

d. The provider shall develop a method of recording all fires, accidents and other emergencies.

e. The provider shall maintain operable fire extinguishers in each building and at each camp site.

f. Staff safety training requirements:

i. the provider shall ensure that all staff involved in wilderness activities are certified in first aid and cardiopulmonary resuscitation (CPR);

ii. no employee or other individual may be left alone with a child or group of children unless that employee or individual has been certified in CPR and first aid;

iii. for each activity, at least one staff member who is present shall be certified or has had at least one year's experience in the adventure activity for which he or she will be supervising children;

iv. for all water activities, at least one staff is present who is certified in emergency water safety and life saving techniques.

g. The provider shall have a safety review committee or another similar mechanism to include in-house technical and supervisory personnel, that meets monthly, who will conduct ongoing safety reviews, evaluations of all accidents, incidents or patterns of incidents and identify

health and safety issues. Documentation of corrective action implemented by the committee addressing health and safety issues identified shall be maintained by the facility. The committee shall establish specific rules and procedures governing the safety of each activity including, but not limited to, outdoor hiking, horseback riding, ropes courses, canoeing and any other adventure/sports/recreation activity in which children participate. The rules and procedures for each type of activity shall be reviewed and approved by a professional in that area to ensure that appropriate safety measures are adopted and followed.

G. Service Program. The agency's overall program shall be designed to help the child develop behaviors, skills and knowledge required to function effectively in life situations through therapeutic adventure-based activities. The program will provide children with outdoor physical, environmental, educational, athletic or other challenging activities within a supportive and therapeutic environment. This will involve physical and psychological challenges that are designed to stimulate competence and personal growth, to expand individual capabilities, to develop self-confidence and insight, and to improve interpersonal skills and relationships.

H. Staff to Child Ratio. Section 1911.H.3.b. regarding child/staff ratio shall not apply to Wilderness Programs. The following standards shall apply:

1. The provider shall ensure that:
 - a. there are at least two staff persons present at all times (24 hours per day) with a group of two to 12 children;
 - b. if more than 12 children are involved, the provider shall maintain a one to six/staff to child ratio.

2. Only those staff members who are providing direct care and supervision of the children shall be counted in determining whether required child/staff ratio is met. These staff persons may be regular staff persons or adventure staff persons. Administrative staff are not counted in determining compliance with child/staff ratio unless a portion of their time is dedicated to direct care and there is documentation to support this.

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§1925. Controlled Intensive Care Facility or Unit

A. Controlled Intensive Care Facilities or Units shall meet all core standards (§§1901-1921), unless specifically replaced or revised, plus the standards as stipulated in this module.

B. Orientation

1. All direct care staff shall receive 40 hours of orientation/training prior to being independently assigned to a particular job. In addition to the topics listed under §1911.E.1, the following topics must be covered:

- a. interpersonal relationships;
- b. communication skills;
- c. child growth and development;
- d. social/cultural lifestyles of the population served;
- e. procedures for use of time-out including controlled time-out; and
- f. procedures for use of locked doors and gates, if allowed.

2. All clerical and support staff, who have minimum contact with residents, shall receive at least 16 hours of orientation/training in topics other than specific job responsibilities, during the first 2 weeks of employment. At a minimum this orientation/training must cover the following:

- a. security procedures;
- b. emergency and safety procedure including medical emergencies;
- c. the provider's philosophy, organization, program, practices and goals;
- d. detecting and reporting suspected abuse and neglect;
- e. reporting critical incidents;
- f. interpersonal relationships;
- g. children's rights; and
- h. social/cultural lifestyles of the population served.

3. All volunteers shall receive orientation, prior to beginning work, as listed for clerical staff.

4. All staff with supervisory authority over direct care staff or who have routine contact with residents shall receive orientation/training as listed for direct care staff.

C. Annual Training

1. All supervisory and direct care staff shall receive at least 40 hours of training, in addition to the orientation training, during the first year of employment.

2. All supervisory and direct care staff shall receive at least 40 hours of training each year of employment.

3. All clerical and support staff shall receive at least sixteen 16 hours of training each year of employment.

D. Staffing Requirements. Section 1911.H.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall have an adequate number of qualified direct care staff on duty and with the children at all times to ensure the health, safety and well being of children and to carry out all treatment plans.

2. The provider shall maintain a direct care staff to children ratio of at least 1:2 when children are present and awake and a staff to children ratio of at least 1:3 when children are present and asleep.

3. Direct care staff shall always be awake while on duty.

4. In addition to required direct care staff, at least one supervisory staff person shall be on call in case of emergency.

5. Any deviation from the staffing ratios as required by this section may only be made as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the required staffing ratio for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

- a. The agreement shall be based upon the needs of the children being placed in the facility.

- b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

- c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than 12 months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

E. Clothing

1. If a Controlled Intensive Care Facility or Unit requests, and is approved to provide uniforms or other clothing to residents, the following procedures must be followed.

a. All uniforms or clothing must be provided by the provider at no cost to the children, their family, the placing or the funding agency. This clothing must be neat, clean and of a type that would normally be worn in the community. Also, no individual child shall be required to wear any distinguishing type clothing or uniform for punishment or for any other negative reason.

b. To be approved to furnish uniforms or other clothing to residents, the provider must obtain a letter of approval from each state agency or court that places children in the facility. These letters of approval must state the type of uniform or clothing to be used and be submitted to the Bureau of Licensing.

c. If approval is granted, all residents, regardless of how or by whom admitted, shall be required to wear the uniform or clothing in accordance with approved treatment policies and procedures.

d. If approval is granted by the Bureau of Licensing, §1913.J.3 of the core standards shall not be enforced.

F. Intake Evaluation. Section 1915.B.1 of the core standards shall be replaced with the following for this module.

1. The Controlled Intensive Care Facility or Unit shall accept a child into care only when a current, comprehensive intake evaluation or assessment has been completed including health, family history, medical, social, psychological, and as appropriate, a developmental and vocational or educational assessment. This evaluation or assessment must have been completed or updated within the last six months. If the child has been hospitalized for treatment, a copy of the last hospitalization report must be provided. This evaluation shall contain evidence that a determination has been made that the child cannot be maintained in a less restrictive environment within the community.

2. An emergency placement of a child into a Controlled Intensive Care Facility or Unit may be made without current evaluations or assessments only as follows:

a. The placing/funding agency verifies that the child requires controlled intensive care.

b. The proper evaluations or assessments are made available to the provider within 15 days.

3. If the proper evaluations or assessments are not made available to the provider within 15 days, the child must be removed.

G. The Treatment Plan

1. Section 1917.A.4 of the core standards shall be revised to require the treatment plan manager to review and approve status reports of the successes and failures of a child at least every 30 days.

2. Section 1917.B.1 of the core standards shall be revised to require an initial treatment plan to be developed within 72 hours of admission. If a master plan is not

developed within 15 days of admission, a review of the initial plan must be made at this time. A master plan shall be developed within 30 days of admission.

H. Time-out Procedures. In addition to §1917.K of the core standards concerning time-out procedures, the following shall be required for the use of controlled time-out.

1. If a child becomes uncontrollable and is a danger to her/himself or others he/she may be placed in controlled time-out. If a child is placed in controlled time-out, the procedures are as follows.

a. Controlled time-out may be for no longer than the time it takes for a child to reach a point where he/she is no longer a danger to her/himself or to others.

b. Controlled time-out shall be in increments of no more than 15 minutes each.

c. Direct care staff may not place a child in controlled time-out for more than the initial 15 minute time frame.

d. When direct care staff places a child in controlled time-out, the unit supervisor or case manager must be notified immediately.

e. If a second 15 minute time-out segment is needed, the unit supervisor or case manager must give approval.

f. The unit supervisor or case manager may only approve two additional time-out time frames [the third and fourth 15 minute period].

g. Any further use of controlled time-out must be approved by a licensed mental health professional.

2. Written reports must be prepared and signed by the individuals authorizing each 15 minute time frame of controlled time-out which gives the events that preceded the need for the use of controlled time-out; why there was a need for additional controlled time-out; how the child reacted to controlled time-out, etc.

3. The case or treatment plan manager must prepare an incident report which covers the events that preceded the initial controlled time-out, the progression of events throughout the entire controlled time-out period and the end result of the time-outs. It shall also give any recommendations that may be deemed necessary to prevent the need for repeated use of controlled time-outs for the individual child or the need for changes in the child's individual treatment plan. This report shall be submitted to the administrator of the agency.

4. The door to the controlled time-out room may only be physically held closed by staff so that the child cannot exit the room.

5. The door to the controlled time-out room shall have a view panel that allows staff to observe the child at all times and staff shall keep the child in continuous sight the entire time that he/she is in the room.

6. The room used for controlled time-out shall have at least 60 square feet of floor space and shall have no furniture, obstructions, projections or other devices that could be used as a means to cause harm to the child or as a weapon against staff.

7. As soon as the child is under control and is no longer a threat of harm to him/herself or others, the door to the controlled time-out room must be released.

I. Exterior Space. In addition to §1919.A of the core standards concerning exterior space, the following shall be

required if the Controlled Intensive Care Facility or Unit utilizes a security fence with locked gates.

1. The fence shall have a gathering area that is at least 50 feet away from the building.

2. The space shall be of sufficient size to allow for 15 square feet of space per each resident and staff that may be in the building.

3. The fence may not be equipped with razor wire.

4. All staff working in the controlled area must carry keys to the gate at all times.

J. Sleeping Accommodation. Section 1919.D.3 of the core standards shall be replaced with the following for this module.

1. A Controlled Intensive Care Facility or Unit shall not permit more than two children to occupy a designated bedroom space.

2. Any deviation to allow more than two children to occupy a designated bedroom space may only be made as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the required two children to a bedroom for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than 12 months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a two week written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

3. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

K. Interior Space

1. Doors leading into a Facility or Unit may be locked only in the direction of ingress.

2. Doors in the line of egress shall not be locked.

3. Any deviation to allow the outermost doors in the line of egress to be locked may only be made after approval has been given by the Office of State Fire Marshal and as agreed upon by the placing/funding agency and the provider. A provider may not deviate from the requirement for unlocked egress doors for any placement made by anyone, or any agency, other than an agency of the State of Louisiana. The procedure for an agreement is as follows.

a. The agreement shall be based upon the needs of the children placed in the facility.

b. A copy of the agreement, signed by both the placing/funding agency and the provider must be on file and a copy mailed to the Bureau of Licensing.

c. The agreement must have an effective beginning date and an ending date. The ending date shall be for no longer than 12 months without a new agreement being signed.

d. An agreement may be canceled by either the placing/funding agency or provider by giving a 30 day

written notice. A copy of this notice shall be mailed to the Bureau of Licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1426.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 25:2458 (December 1999), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2720 (December 2007).

§1927. Core Requirements

A. Administration and Organization

1. General Requirements

a. A provider shall have a written policy on client civil rights. This policy shall give assurance that:

i. a client's civil rights are not abridged or abrogated solely as a result of placement in the provider's program;

ii. a client's civil rights are protected through accessibility of legal counsel;

iii. a client is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, religion or ethnic background.

b. A provider shall allow representatives of DHHR in the performance of their mandated duties to inspect all aspects of a program's functioning which impact on clients and to interview any staff member or client.

i. A provider shall make any information which the provider is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to DHHR. The client's rights shall not be considered abridged by this requirement.

c. A provider accepting any client who resides in another state shall comply with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health.

2. Other Jurisdictional Approvals

a. The provider shall show appropriate evidence of compliance with any relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including:

i. the Division of Licensing and Certification;

ii. the Office of Preventive and Public Health Services;

iii. the Office of State Fire Marshal;

iv. the City Fire Marshal's Office, if applicable;

v. the applicable local governing authority;

vi. fiscal and program review agencies within

DHHR;

vii. the Department of Education, if applicable.

3. Governing Body

a. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

i. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

ii. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

iii. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and by-laws specifying frequency of meetings and quorum requirements.

4. Responsibilities of a Governing Body

a. The governing body of a provider shall:

i. ensure the provider's compliance and conformity with the provider's charter;

ii. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

iii. ensure that the provider is adequately funded and fiscally sound;

iv. review and approve the provider's annual budget;

v. ensure the review and approval of an annual external audit;

vi. ensure that the provider is housed, maintained, staffed, and equipped appropriately considering the nature of the provider's program;

vii. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the provider;

viii. formulate and annually review, in consultation with the chief administrator, written policies concerning the provider's philosophy, goals, current services, personnel practices, and fiscal management;

ix. annually evaluate the chief administrator's performance;

x. have the authority to dismiss the chief administrator;

xi. meet with designated representatives of DHHR whenever required to do so;

xii. inform designated representatives of DHHR prior to initiating any substantial changes in the program, services or physical plant of the provider.

5. Accessibility of Executive

a. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or designated representatives of DHHR at all times.

6. Documentation of Authority to Operate

a. A private provider shall have documentation of its authority to operate under state law.

i. A privately owned provider shall have documents identifying the names and addresses of owners.

ii. A corporation, partnership, or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership, agreement, constitution, articles of association, or by-laws.

7. Statement of Philosophy

a. A provider shall have a written statement describing its philosophy and describing both long-term and short-term goals.

8. Program Description

a. A provider shall have a written program plan describing the services and programs offered by the provider.

9. Accounting and Recordkeeping

a. A provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books, and records.

b. A provider shall demonstrate fiscal accountability through regular recording of its finances and an annual external audit.

c. A provider shall not permit funds to be paid, or committed to be paid, to any person to which any of the members of the governing body, administrative personnel, or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the provider. The provider shall have a written disclosure of any financial transaction with the facility in which a member of the governing body administrative personnel, or his/ her immediate family is involved.

d. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

e. All records shall be maintained in an accessible, standardized order and to at and shall be retained and disposed of according to state laws.

f. A provider shall have sufficient space, facilities, and supplies for providing effective recordkeeping services.

10. Confidentiality and Security of Files

a. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider, and the provider as custodian, shall secure records against loss, tampering or unauthorized use.

b. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

c. When the client is of majority age and noninterdicted, a provider shall obtain the client's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except for authorized state and federal agencies and another provider with professional interest in the client.

d. When the client is a minor or is interdicted, the provider shall obtain written, informed consent from the parent(s), tutor, or curator prior to releasing any information from which the client might be identified except for authorized state and federal agencies and another provider with professional interest in the client.

e. A provider shall, upon request, make available information in the case record to the client, the legally

responsible person, or legal counsel of the client. If, in the professional judgement of the administration of the provider, it is felt that information contained in the record would be damaging to a client, that information may be withheld from the client except under court order.

f. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that names are deleted and other identifying information is disguised or deleted.

g. Client records shall be retained in accordance with state and/or federal regulations.

11. Administrative File

a. A provider shall have an administrative file including:

- i. documents identifying the governing body;
- ii. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
- iii. by-laws of the governing body and minutes of formal meetings, if applicable;
- iv. documentation of the provider's authority to operate under state law;
- v. organizational chart of the provider;
- vi. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- vii. insurance policies;
- viii. annual budgets and audit reports;
- ix. master list of all providers used by the provider.

12. Client's Case Record

a. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission until the time the client leaves the provider. A client's case record shall include:

- i. the name, sex, race, religion, birthdate and birthplace of the client;
- ii. other identification data including court status, legal status, who is authorized to give consents;
- iii. client's history including, where applicable, family data, educational background, employment record, prior medical history, and prior placement history;
- iv. a copy of the client's individual service plan and any modifications thereto and an appropriate summary to guide and assist direct service workers in implementing the client's program;
- v. the findings made in periodic reviews of the plan, including a summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary;
- vi. quarterly status reports;
- vii. a copy of the aftercare plan and any modifications thereto, and a summary of the steps that have been taken to implement that plan;
- viii. when restraint in any form other than passive physical restraint has been used, a signed order for each use of restraint issued by a qualified professional prior to such use;
- ix. critical incident reports;
- x. reports of any client grievances and the conclusions or disposition of these reports;

- xi. a summary of family visits and contacts;
- xii. a summary of attendance and leaves from the provider.

13. Medical and Dental Records

a. A provider shall maintain complete health records of a client including: A complete record of all immunizations provided; a record of any medication; records of vision, physical, or dental examinations; and a complete record of any treatment provided for specific illness or medical emergencies.

i. Upon discharge, a provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

b. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- i. allergies to medication;
- ii. immunization history;
- iii. history or serious illness, serious injury or major surgery;
- iv. developmental history;
- v. current use of prescribed medication;
- vi. current use of alcohol or non-prescribed drugs;
- vii. medical history.

14. Personnel File

a. A provider shall have a personnel file for each employee which shall contain:

- i. the application for employment and/or resume';
- ii. reference letters from former employer(s) and personal references or phone notes on such references;
- iii. any required medical examinations;
- iv. evidence of applicable professional credentials/certifications according to state law;
- v. annual performance evaluations;
- vi. personnel actions, other appropriate materials, reports, and notes relating to the individual's employment with the facility;
- vii. employee's starting and termination dates;
- viii. the staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

b. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

15. Fund Raising and Publicity

a. A provider shall have a policy regarding participation of clients in activities related to fundraising and publicity.

i. Consent of the client and, where appropriate, the legally responsible person shall be obtained prior to participation in such activities.

b. A provider shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of clients.

i. The written consent of the client and, where appropriate, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

ii. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

16. Research

a. A provider shall have written policies regarding the participation of clients in research projects. These policies shall conform to the National Institute of Mental Health Standards on Protection of Human Subjects.

17. Representation at Hearings

a. A provider shall, when allowed by law, have a representative present at all judicial, educational, or administrative hearings which address the status of a client in care of the provider.

B. Human Resources

1. Staff Plan

a. A provider shall have a written plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members.

2. Recruitment

a. A provider shall employ qualified people of both sexes representative of the racial groups served by the provider.

3. Screening

a. A provider's screening procedures shall address the prospective employee's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining assigned release and the names of the references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

4. Orientation

a. A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices, and goals of the facility and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

5. Training

a. A provider shall ensure that each direct service worker participates in in-service training each year. Orientation training and activities related to routine supervision of employee's tasks shall not be considered for the purposes of this requirement.

b. A provider shall document that all employees receive training on an annual basis in emergency and safety procedures; the principles and practices of client care; the provider's administrative procedures and programmatic goals; client rights; and procedures and legal requirements concerning the reporting of abuse and critical incidents.

i. Direct service workers shall, in addition, receive training in acceptable behavior management techniques, crisis management and passive physical restraint.

c. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units of the provider.

6. Evaluation

a. A provider shall undertake an annual performance evaluation of all staff members.

i. For any person who interacts with clients, a provider's performance evaluation procedures shall address the quality and nature of a staff member's relationship with clients.

7. Personnel Practices

a. A provider shall have written personnel policies and written job descriptions for each staff position.

b. A provider shall have a written employee grievance procedure.

8. Number and Qualifications of Staff

a. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

i. administrative functions;
ii. fiscal functions;
iii. clerical functions;
iv. housekeeping, maintenance, and food service functions;

v. direct client service functions;
vi. supervisory functions;
vii. recordkeeping and reporting functions;
viii. social service functions;
ix. ancillary service functions.

b. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

c. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health, safety, and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages and needs of the clients. Adequate number is determined by the level of care procedure and form.

d. A provider shall not knowingly hire, or continue to employ, any person whose health, educational achievement, emotional or psychological makeup impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well-being of the clients. This requirement is not to be interpreted to exclude continued employment in other than direct service capacities of persons undergoing temporary medical or emotional problems.

9. External Professional Services

a. A provider shall obtain any required professional services not available from employees of the provider and shall have documentation of access to such services either in the form of a written agreement with an appropriately qualified professional or written agreements with the state for required resources.

10. Volunteers/Students Interns

a. A provider which utilizes volunteers or student interns on a regular basis, shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

i. be directly supervised by a paid staff member;
ii. be oriented and trained in the philosophy of the facility and the needs of clients, and methods of meeting those needs;

iii. be subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

iv. be aware of and be briefed on any special needs or problems of clients.

11. Staff Communications

a. A provider shall establish procedures to assure adequate communication among the staff to provide continuity of services to the client. This system of communication shall include:

i. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;

ii. sharing of daily information noting unusual circumstances and other information requiring continued action by staff;

iii. records maintained of all accidents, personal injuries, and pertinent incidents related to implementation of client's individual service plans.

b. Any employee of a provider working directly with clients in care shall have access to information from clients case records that is necessary for effective performance of the employee's assigned tasks.

c. A provider shall establish procedures which facilitate participation and feedback by staff members in policy-making, planning, and program development for clients.

C. Quality of Life

1. Family Involvement

a. A provider shall have a written description of strategies used by the provider's program to foster ongoing positive communications and contact between clients and their families, their friends, and others significant in their lives.

b. A provider shall have evidence that the client's family and, where appropriate, the legally responsible person have been informed of:

i. the philosophy and goals of the provider;

ii. behavior management and disciplinary practices of the provider;

iii. the provider's arrangements for clients' participation in religious observances;

iv. any specific treatment or treatment strategy employed by the provider to be implemented for a particular client;

v. visiting hours, visiting rules and procedures, arrangements for home visits, and procedures for communicating with clients by mail or telephone;

vi. a procedure for registering complaints concerning the client's care or treatment;

vii. the name, telephone number, and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis.

2. Community Involvement

a. A provider shall have a written plan to foster participation by clients in normal community activities to the degree possible considering the individual client's level of functioning.

i. This plan shall include approaches to appropriately supervised contact between clients and members of the opposite sex, unless such contact is contraindicated by the individual client's service plan.

3. Communication and Visits

a. A provider shall have a written description of rules and procedures concerning:

i. telephone communication by clients;

ii. sending and receiving of mail by clients;

iii. visits to and from a client's family and friends.

4. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved by the prime worker and shall be reviewed every 30 days by the prime worker.

5. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff unless contraindicated by the client's service plan and reviewed every 30 days by the prime worker.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary ensure that clients who wish to correspond with others are given any required assistance.

6. Visits

a. A provider shall allow a client to visit or be visited by family and friends subject only to reasonable rules and to any specific restrictions in the client's service plan.

i. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

ii. Special restrictions must be reviewed every thirty days by the prime worker and, if restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

7. Routines

a. A provider shall have a written set of daily routines for clients designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest, and sleep.

8. Money and Personal Belongings

a. A provider shall permit and encourage a client to possess his/ her own money either by giving an allowance and/or by providing opportunities for paid work, unless otherwise indicated by the client's service plan and reviewed every 30 days by the prime worker.

i. Money earned, received as a gift, or received as allowance by a client shall be deemed to be that client's personal property.

ii. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests and are duly recorded in the client's service plan.

iii. A provider shall, as appropriate to the client's age and abilities, provide training in budgeting, shopping, and money management.

b. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. Where extraordinary limitations are imposed, the client shall be informed by staff of the reasons, and the decision and reasons shall be recorded in the client's case record. Reasonable provisions shall be made for the protection of the client's property.

9. Work

a. A provider shall have a written description of the provider's approach to involving client's in work including:

- i. description of any unpaid tasks required of clients;
- ii. description of any paid work assignments including the pay scales for such assignments;
- iii. description of the provider's approach to supervising work assignments;
- iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. A provider shall demonstrate that any client work assignments are designed to provide a constructive experience for clients and are not used as a means of performing vital provider functions at low cost.

i. All work assignments shall be in accordance with the client's service plan.

c. A provider shall assign as unpaid work for clients only housekeeping tasks similar to those performed in a normal community home.

d. When a client engages in off-grounds work, the provider shall document that:

- i. such work is voluntary and in accordance with the client's service plan;
- ii. the prime worker approves such work;
- iii. such work is supervised by qualified personnel;
- iv. the conditions and compensation of such work are in compliance with applicable state and federal laws;
- v. such work does not conflict with the client's program.

10. Recreation

a. A provider shall have a written plan for ensuring that a range of indoor and outdoor recreational and leisure opportunities are provided for clients. Such opportunities shall be based on both the individual interests and needs of the clients and the composition of the living group.

b. A provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources.

c. A provider which has recreation staff shall ensure that recreation staff are apprised of and, when appropriate, involved in the development and review of service plans.

11. Religion

a. A provider shall have a written description of its religious orientation, particular religious practices that are observed, and any religious restrictions on admission. This description shall be provided to the client; where appropriate, the legally responsible person; and the responsible agency.

i. Every client shall be permitted to attend religious service in accordance with his/her faith. The provider shall, whenever possible, arrange transportation and encourage participation by those clients who desire to participate in religious activities in the community.

ii. Clients shall not be forced to attend religious services.

b. When the client is a minor, the provider shall determine the wishes of the legally responsible person with regard to religious observance and instruction at the time of placement and shall make every effort to ensure that these wishes are carried out.

12. Clothing

a. A provider shall ensure that clients are provided with clean well-fitting clothing appropriate to the season and to the client's age, sex, and individual needs.

i. Clothing shall be maintained in good repair.

ii. All clothing provided to a client shall go with the client at discharge.

iii. Clothing shall belong to the individual client and not be shared in common.

13. Personal Care and Hygiene

a. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene, and grooming appropriately to their age, sex, and race.

14. Food Services

a. A provider shall ensure that a client is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender, and activity of the Food Nutrition Board of the National Research Council.

b. A person designated by the chief administrator shall be responsible for the total food service of the provider. If this person is not a professionally qualified dietitian, regularly scheduled consultation with a professionally qualified dietitian shall be obtained.

i. The person responsible for food service shall: maintain a current list of clients with special nutritional needs; have an effective method of recording and transmitting diet orders and changes; record in the clients' medical records information relating to special nutritional needs; provide nutritional counseling to staff and clients; and manage and coordinate the resources of the dietary services to achieve effective, efficient, and sanitary production.

c. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

i. The provider shall ensure that the food provided to a client in care by the provider is in accord with his/her religious beliefs.

ii. A provider shall develop written menus at least one week in advance.

iii. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods and shall vary from week to week.

d. No client shall be denied a meal for any reason except according to a doctor's order.

i. No client shall be forced-fed or otherwise coerced to eat against his/her will except by order of a doctor.

e. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

f. A provider shall purchase and provide to clients only food and drink of safe quality and the storage, preparation, and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

i. Milk and milk products shall be Grade A and pasteurized.

15. Health Care

a. A provider shall ensure the availability of a comprehensive program of preventive, routine, and emergency medical and dental care, as appropriate, for all clients. The provider shall have a written plan for providing such care. This plan shall include:

- i. ongoing appraisal of the general health of each client;
- ii. provision of health education, as appropriate;
- iii. establishment of an ongoing immunization program;
- iv. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her own age and understanding.
- v. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;
- vi. availability of a physician on a 24-hour a day, seven days a week basis;
- vii. the provider shall show evidence of access to the resources outlined in this plan.

b. A provider shall have access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to the needs of the clients.

16. Medical Care

a. A provider shall arrange a general medical examination by a physician for each client within a week of admission unless the client has received such an examination within 30 days before admission and the results of this examination are available to the provider. This examination shall include:

- i. an examination of the client for physical injury and disease;
- ii. vision and hearing screening;
- iii. a current assessment of the client's general health;
- iv. whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment;
- v. the provider shall arrange an annual physical examination of all clients.

b. A provider must ensure that a client receives timely, competent medical care, in keeping with community standards of medical practice when he/she is ill.

17. Immunizations

a. A provider, after attempting to determine client's immunization history, shall ensure that the client has received all immunizations and booster shots which are required by the Department of Health within 30 days of his/her admission.

18. Medications

a. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

- i. There shall be no standing orders for prescription medications.
- ii. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.
- iii. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

b. The provider shall ensure that the prescribing physician is immediately informed of any side-effects observed by staff or any medication errors.

c. A provider using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications at the provider including:

- i. a description of procedures to ensure that medications are used for therapeutic purposes and in accordance with accepted clinical practice;
- ii. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the client unobtainable through less restrictive measures;
- iii. a description of procedures to ensure continual review of medication and discontinuation of medication when there are no demonstrable benefits to the client;
- iv. a description of an ongoing program to counsel client's and, where appropriately, their families on the potential benefits and negative side-effects of medication and to involve clients and, where appropriate, their families in decisions concerning medication.

d. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

i. A medication shall not be administered to any client for whom the medication has not been ordered.

e. A provider shall ensure that medication is used for therapeutic and medical purposes only and are not administered in excessive dosages.

i. Medication shall not be used as a disciplinary measure, a convenience for staff, or as a substitute for adequate, appropriate programming.

19. Grievance Procedure for Clients

a. A provider shall have a written grievance procedure for clients designed to allow clients to make complaints without fear of retaliation.

i. The provider shall make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

20. Abuse and Neglect

a. A provider shall have comprehensive, written procedures concerning client abuse including:

i. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws.

ii. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours and a complete investigation report within 10 working days.

iii. a procedure for ensuring that the client is protected from potential harassment during the investigation;

iv. a procedure for disciplining staff members who abuse or neglect clients.

21. Reports on Critical Incidents

a. A provider shall have written procedures for the reporting and documentation of deaths of clients, injuries, fights, or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety, or well-being of a client or clients.

i. Such procedures shall ensure timely verbal and written reports to the chief administrator.

b. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety, or wellbeing, a provider shall:

i. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

ii. ensure immediate notification of designated representatives of DHHR or other appropriate authorities, according to state law;

iii. ensure immediate, documented attempts to notify the legally responsible person of the client;

iv. ensure immediate attempts to notify other involved agencies and parties, as appropriate;

v. ensure immediate notification of the appropriate law enforcement authority whenever warranted;

vi. ensure follow-up written reports to all appropriate persons and agencies.

D. Direct Service Management

1. Admission Policies

a. A provider shall have a written description of admissions policies and criteria which shall include the following information:

i. policies and procedures related to intake; the policies shall include, at least, due process procedures for admission of minor, determination before admission of appropriate legal status according to appropriate state laws;

ii. the age and sex of clients in care;

iii. the needs, problems, situations or patterns best addressed by the provider's program;

iv. any other criterion for admission;

v. criteria for discharge;

vi. any preplacement requirements on the client, the legally responsible person, DHHR, or other involved agencies;

vii. the provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person;

viii. the written description of admissions policies and criteria shall be provided to DHHR and shall be available to the legally responsible person for any client referred for placement;

ix. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

b. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

c. A provider shall not admit more clients into care than the number specified on the provider's license.

d. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

e. When refusing admission to a client, a provider shall provide a written statement of the reason for refusal of admission to the designated representative of DHHR.

f. A provider shall ensure that the client; where appropriate, the legally responsible person; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission. Where such involvement of the legally responsible person is not possible,

or not desirable, the reasons for their exclusion shall be recorded in the admission study.

2. Intake Evaluation

a. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including social, health, and family history; and, medical, social, psychological and, as appropriate, developmental or vocational or educational assessment. This evaluation shall contain evidence that a determination has been made that the client cannot be maintained in a less restrictive environment within the community.

b. In emergency situations necessitating immediate placement into care, the provider shall gather as much information as possible about the client to be admitted and the circumstances requiring placement; formalize this in an "emergency admission note" within two days of admission; and then proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

3. Clarification of Expectations to Client

a. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior, and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

4. Placement Agreement

a. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement signed by all parties involved in its formulation shall be kept in the client's record and a copy shall be available to DHHR, the client and, where appropriate, the legally responsible person.

b. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

c. The placement agreement shall be developed with the involvement of the client; where appropriate, the legally responsible person; and DHHR. Where the involvement of any of these parties is not feasible or desirable, the reasons for the exclusion shall be recorded. The placement agreement shall include, by reference or attachment, at least the following:

i. discussion of the client's and the family's expectations regarding: family contact and involvement; the nature and goals of care, including any specialized services to be provided; the religious orientation and practices of the client; and the anticipated discharge date and aftercare plan;

ii. a delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;

iii. authorization to care for the client;

iv. authorization to obtain medical care for the client;

v. arrangements regarding visits, vacation, mail, gifts, and telephone calls;

vi. arrangements as to the nature and frequency of reports to, and meetings involving, the legally responsible person and referring agency;

vii. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident, or other significant event regarding the client.

d. The provider shall ensure that each client upon placement, is checked for illness, fever, rashes, bruises, and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

e. The provider shall assign a staff member to orient the client, and where available, the family to life at the provider.

5. Discharge and Aftercare

a. Prior to planned discharge of a client, the provider's staff shall formulate an aftercare plan specifying the supports and resources to be provided to the client. Aftercare plans are to be kept in the client's record.

i. Prior to discharge the provider's staff shall ensure that the client is aware of and understands his/her aftercare plan and the department's representatives shall be notified of the plans.

ii. When the client is being placed in another program following discharge, representatives of the staff shall, confer with representatives of that program prior to the client's discharge to share information concerning the client.

b. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

i. The provider shall give immediate notice of discharge to the legally responsible person, DHHR, and the appropriate educational authorities.

ii. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider and DHHR to insure that the client is placed in a program that reasonably meets the client's needs.

iii. The provider shall have a written report detailing the circumstances leading to such unplanned discharge.

c. When a client is discharged, a provider shall compile a complete written discharge summary immediately upon discharge, such summary to be included in the client's record. When the client is discharged to another agency, this summary must accompany the client. This summary shall include:

i. the name and home address of the client and, where appropriate, the legally responsible person;

ii. the name, address, telephone number of the provider;

iii. a summary of services provided during care;

iv. a summary of growth and accomplishments during care;

v. the assessed needs which remain to be met and alternate service possibilities which might meet those needs;

vi. a statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

E. Individual Service Planning

1. The Prime Worker

a. A provider shall ensure that a prime worker who is an appropriately qualified professional(QP) is assigned to each client and given responsibility for and authority over:

i. supervision of the implementation of the client's service plan;

ii. integration of the various aspects of the client's program;

iii. recording of the client's progress as measured by objective indicators;

iv. reviewing the client's service plan, on a quarterly basis;

v. ensuring the timely release, whenever appropriate, of the client to a less restrictive setting;

vi. monitoring any extraordinary restriction of the client's freedom including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. The Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social, and as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

i. The assessment shall identify the client's strengths and needs, establish priorities to assist in the development of an appropriate plan and conclude with recommendations concerning approaches and techniques to be used.

ii. All methods used in assessing a client shall be appropriate considering the client's age, cultural background and dominant language or mode of communication.

iii. Individual service plans shall be developed by an inter-disciplinary team including the prime worker; representatives of the direct service staff working with the client on a daily basis; and other professionals, as indicated.

iv. The provider shall document that, where applicable, the designated representative of DHHR and, where appropriate, the legally responsible person have been invited to participate in the planning process and when they do not participate, shall document the reason, if known, for non-participation.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. A provider shall ensure that the service plan for each client includes the following components:

i. the findings of the assessment;

ii. a statement of goals to be achieved or worked towards for the client and his/her family.

iii. plan for fostering positive family relationships for the client, when appropriate;

iv. specification for the daily activities, including training/education for 3-21 years of age and recreation, to be pursued by the program staff and the client in order to attempt to achieve the stated goals;

v. specification of specialized services that will be provided directly or arranged for, and measures for ensuring their proper integration with the client's ongoing program activities;

vi. specification of time-limited targets in relation to overall goals and specific objectives;

vii. methods for evaluating the client's progress;

viii. goals and preliminary plans for discharge and aftercare;

ix. identification of all persons responsible for implementing or coordinating implementation of the plan;

x. the completed service plan shall be signed by all team participants.

d. A provider shall review each service plan at least annually and shall evaluate the degree to which the goals have been achieved.

i. The provider shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved by the prime worker.

e. A provider shall ensure that all persons working directly with the client are appropriately informed of the service plan.

3. Education

a. A provider shall ensure that each client has access to appropriately educational services consistent with the client's abilities and need, taking into account his/her age and level of functioning.

i. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

4. Reports

a. When the client is a minor, the chief administrator of a provider or his/ her designee shall report in writing to the legally responsible person of the client at least annually, or as otherwise required by law, with regard to the client's progress with reference to the goals and objectives in the service plan. This report shall include a description of the clients' medical condition.

5. Arrangement of Clients into Groups

a. A provider shall have a statement describing the manner in which clients are arranged into groups within the provider and demonstrating that this manner of arranging client's into groups effectively addresses the needs of client's. This statement must be in accordance with the following principles.

i. All clients must have privacy and a place to go during periods of relative quiet and inactivity.

ii. All clients must have an opportunity to form relationships within small groups.

iii. Clients must have an opportunity to form relationships with consistent group of direct service staff.

iv. Clients must be involved in decision-making regarding the roles and routines of their living group to the degree possible considering their level of functioning.

6. Behavior Management

a. The provider shall have a written description of the methods of behavior management to be used on facility-wide level. This description shall include:

i. definition of appropriate and inappropriate behaviors of clients.

ii. acceptable staff responses to inappropriate behaviors;

iii. the description shall be provided to all the provider's staff.

b. A provider shall have clearly written list of rules and regulations governing conduct for clients in care of the provider. These rules and regulations shall be made available

to each staff member, each client and, where appropriate, the legally responsible person.

7. Limitations on Potentially Harmful Responses

a. A provider shall prohibit the following responses to clients by staff members:

i. any type of physical hitting or other painful physical contact except as required for medical, dental, or first aid procedures necessary to preserve the client's life or health;

ii. requiring a client to take an extremely uncomfortable position;

iii. verbal abuse, ridicule, or humiliation;

iv. withholding of meal, except under a physician's order;

v. denial of sufficient sleep, except under a physician's order;

vi. requiring the client to remain silent for a long period of time;

vii. denial of shelter, warmth, clothing, or bedding;

viii. assignment of harsh physical work.

8. Limitations on Punishments

a. A provider shall prohibit the following responses to clients by staff members when such responses are used as punishments:

i. physical exercise or repeated physical motions;

ii. excessive denial of usual services;

iii. denial of visiting or communication with family;

iv. extensive withholding of emotional response;

v. any other cruel and unusual punishment.

b. A provider shall not punish groups of clients for actions committed by an individual.

c. Clients shall not punish or supervise other clients except as part of an organized therapeutic self-government program that is conducted in accordance with written policy and is supervised directly by staff.

d. A provider shall ensure that punishment is not delegated to persons who are not known to the client.

9. Restraint

a. A provider shall not use any form of restraint except in accordance with current DHHR policy.

10. Time-Out Procedures

a. A provider using time-out procedures involving placement of clients in an unlocked room for brief periods shall have a written policy governing the use of time-out procedures. This policy shall ensure that:

i. time-out procedures are used only when less restrictive measures are not feasible;

ii. time-out shall be used only in accordance with the client's service plan;

iii. written orders for time-out procedures shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure which shall under no circumstances exceed 12 hours.

iv. emergency use of time-out shall be approved by the chief administrator or his/her designee for a period not to exceed one hour.

v. when a client is in time-out, a staff member shall exercise direct physical supervision of the client.

vi. a client in time-out shall not be denied access to bathroom facilities.

F. Physical Environment

1. Location of New Facilities

a. Any individual or organization seeking initial licensure as a provider shall provide the following documentation to the DHHR at the time of application:

i. Evidence that the proposed site location of the provider will be appropriate to clients to be served in terms of individual needs, program goals, and access to service facilities;

ii. Identification of the permitted uses of the site under existing zoning by-laws of the municipality in which the site is located, if applicable;

iii. A copy of the site plan and a sketch of the floor plan of the proposed provider;

iv. A description of the way in which the provider will be physically harmonious with the neighborhood in which it is located considering such issues as scale, appearance, density, and population.

2. Accessibility

a. A provider's building, parking lots, and facilities shall be accessible to and functional for clients, staff members, and the public, as required by applicable federal and state laws and regulations.

3. Exterior Space

a. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

b. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

i. Garbage and rubbish which is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.

ii. Trash collection receptacles and incinerators shall be separate from play area and be located as to avoid being a nuisance to neighbors.

iii. Fences shall be in good repair.

iv. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, shall be fenced off or have natural barriers to protect clients.

v. Playgrounds equipment shall be so located, installed, and maintained as to ensure the safety of clients.

c. A provider shall have access to outdoor recreational space and suitable recreational equipment.

4. Interior Space

a. Each living unit of a provider shall contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consonant with the programmatic goals of the provider.

b. A provider shall provide an appropriate variety of interior recreational spaces.

5. Dining Areas

a. A provider shall provide dining areas which permit clients, staff, and as appropriate, guests to eat together in small groups.

b. A provider shall provide dining areas which are clean, well-lighted, ventilated, and attractively furnished.

6. Sleeping Accommodations

a. A provider shall ensure that each single occupancy bedroom space has a floor area of at least 80

square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

b. A provider shall not use a room with a ceiling height of less than seven feet six inches as a bedroom space, unless, in a room with varying ceiling height, the portions of the room where the ceiling is at least seven feet six inches allow a usable space with floor areas as required above.

c. provider shall not permit more than four clients to occupy a designated bedroom space unless properly documented reasons necessitate it.

d. No client over the age of 5 years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple or properly documented medical reasons require it.

e. A provider shall not use any room which does not have a window as a bedroom space.

f. Each client in care of a provider shall have his/her own bed; a double bed may be provided for a married couple. A client's bed shall be no shorter than the client's height and no less than thirty inches wide and shall have a clean, comfortable, non-toxic fire-retardant mattress.

g. A provider shall ensure that sheet, pillow bedspread, and blankets are provided for each client.

i. Enuretic clients shall have mattresses with moisture-resistant covers.

ii. Sheets and pillow cases shall be changed at least weekly but shall be changed more frequently, if necessary.

h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.

i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.

k. Each client in care of a provider shall have his/her own designated area for rest and sleep.

l. The decoration of sleeping area for clients shall allow some scope for the personal tastes and expressions of the clients.

7. Bathrooms

a. A provider shall have an adequate number of wash basins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water according to client care needs.

i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

ii. Each bathroom shall be properly equipped with toilet paper, towels, soap, and other items required for personal hygiene unless clients are individually given such items.

iii. Tubs and showers shall have slip-proof surfaces.

b. A provider shall provide toilets and baths or showers which allow for individual privacy unless clients in care require assistance.

c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold water. This water shall be potable.

d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the clients basic hygienic needs.

e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children, if necessary.

f. Toilets, wash basins, and other plumbing and sanitary facilities in a facility shall be kept free of any materials that might clog or otherwise impair their operation.

8. Kitchens

a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals for all of the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.

b. A provider shall not use disposable dinnerware at meals on a regular basis unless the facility documents that such dinnerware is necessary to protect the health and safety of clients in care.

c. A provider shall ensure that all dishes, cups, and glasses used by clients in care are free from chips, cracks, or other defects.

i. All reusable eating and drinking utensils shall be sanitized after a thorough washing and rinsing.

d. Animals shall not be permitted in food storage, preparation, and dining areas.

9. Staff Quarters

a. A provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

10. Administrative and Counseling Space

a. A provider shall provide a space which is distinct from client's living areas to serve as an administrative office for records, secretarial work, and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

11. Furnishing

a. A provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

i. Outside doors, windows, and other features of the structure necessary for safety and comfort of clients shall be secured for safety within 24 hours of being found to be in a state of disrepair. Total repair shall be effected as soon as possible.

12. Doors and Windows

a. A provider shall ensure that any designated bedroom where the bedroom space is not equipped with a mechanical ventilation system, must be provided with windows which have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets, bedrooms, and bathrooms which have doors are provided with doors that can be readily opened from both sides.

13. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

14. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets, and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor, or stairway within a provider shall be sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

15. Heat

a. A provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of the clients.

b. A provider shall maintain the spaces used by clients at temperatures in accordance with federal and state laws.

c. A provider shall not use open flame heating equipment.

16. Finishings and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls and ceilings surfaced with materials containing asbestos.

c. A provider shall not use lead paint for any purpose within the provider or on the exterior or grounds of the provider, nor shall the provider purchase any equipment, furnishings, or decorations surfaced with lead paint.

i. A provider which accepts clients for placement who are under six years of age, mentally retarded, or severely emotionally disturbed shall have evidence that the provider has been found to be free of lead paint hazards.

G. Emergency and Safety

1. Emergency and Safety Plan

a. A provider shall have a written overall plan of emergency and safety procedures.

i. The plan shall provide for the evacuation of clients to safe or sheltered areas.

ii. The plan shall include provisions for training staff and, as appropriate, clients in preventing, reporting, and responding to fires and other emergencies.

iii. The plan shall provide means for an on-going safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment, and investigation of all accidents or emergencies.

iv. The plan shall include provisions for training personnel in their emergency duties and in the use of any fire-fighting or other emergency equipment in their immediate work areas.

2. Drills

a. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

i. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

3. Notification of Emergencies

a. A provider shall immediately notify DHHR and other appropriate agencies of any fire, disaster, or other emergency which may present a danger to clients or require their evacuation from the facility.

4. Access to Emergency Services

a. A provider shall have access to 24-hour telephone service.

i. The provider shall have either post telephone numbers of emergency services, including fire department, police, medical services, poison control, and ambulance, or else who evidence of an alternate means of immediate access to these services.

5. General Safety Practices

a. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

b. A provider shall ensure that all poisonous, toxic, and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff, and visitors.

c. A provider shall ensure that an appropriately equipped first-aid kit is available in the provider's buildings and in all vehicles used to transport clients.

6. Transportation

a. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

b. The provider shall have means of transporting clients in cases of emergency.

c. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with state law.

d. Any staff member of the provider or other person acting on behalf of the provider operating a vehicle for the purpose of transporting clients shall be properly licensed to operate that class of vehicle according to state law.

e. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

f. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

g. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

h. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

i. A provider shall ensure that porches, elevated walkways, and elevated play areas within the facility meet ANSI standards.

j. Every required exit, exit access and exit discharge in a provider's buildings shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

k. A provider shall prohibit the use of candles in sleeping areas of the clients.

l. Powerdriven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under to direct supervision of a staff member and according to state law.

m. A provider shall have procedures to prevent insect and rodent infestation.

n. A provider shall allow clients to swim only in areas determined to be safe and under supervision of a person with a current water safety instructor certificate or senior lifesaving certificate from the Red Cross or its equivalent.

o. The following additional arrangements are required for a provider serving handicapped, non-ambulatory clients:

i. a ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles, except automobiles, normally used to transport physically handicapped clients. A mechanical lift may be utilized provided that a ramp is also available in case of emergency.

ii. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle.

iii. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide adequate aisle space and shall not impede access to the exit door of the vehicle.

H. Emergency Preparedness

1. The residential home, also known as an intermediate care facility for the mentally retarded (ICF-MR), shall have an emergency preparedness plan which conforms to the Office of Emergency Preparedness (OEP) model plan and is designed to manage the consequences of declared disasters or other emergencies that disrupt the residential home's ability to provide care and treatment or threatens the lives or safety of the residential home residents. The residential home shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

2. At a minimum, the residential home shall have a written plan that describes:

a. the evacuation of residents to a safe place either within the residential home or to another location;

b. the delivery of essential care and services to residential home residents, whether the residents are housed off-site or when additional residents are housed in the residential home during an emergency;

c. provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the residential home or at another location;

d. a plan for coordinating transportation services required for evacuating residents to another location; and

e. procedures to notify the resident's family, guardian or primary correspondent if the resident is evacuated to another location.

3. The residential home's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The residential home's performance during the activation of the plan shall be evaluated and documented.

The plan shall be revised if indicated by the residential home's performance during the planned drill.

4. The residential home's plan shall be reviewed and approved by the parish OEP, utilizing appropriate community-wide resources.

5. The plan shall be available to representatives of the Office of the State Fire Marshal.

6.a. In the event a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and sustains damages due to wind, flooding, or power outages longer than 48 hours, the residential home shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section.

i. The purpose of these surveys is to assure that the residential home is in compliance with the licensing standards including, but not limited to, the areas of the structural soundness of the building, the sanitation code, and staffing requirements.

ii. The Health Standards Section will determine the facility's access to the community service infrastructure such as hospitals, transportation, physicians, professional services, and necessary supplies.

b. If a residential home evacuates, temporarily relocates, or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the parish OEP and does not sustain damages due to wind, flooding or power outages longer than 48 hours, the residential home may be reopened.

7. Before reopening at its licensed location, the residential home must submit a detailed summary to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. A copy of the facility's approved emergency preparedness plan must be attached to the detailed summary. The detailed summary must contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of injuries and/or deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation.

8. Before reopening, the residential home must receive approval from the licensing agency that the facility was in substantial compliance with the emergency preparedness plan. The licensing agency will review the facility's plan and the detailed summary submitted.

a. If the licensing agency determines from these documents that the facility was in substantial compliance with the plan, the licensing agency will issue approval to the facility for reopening subject to the facility's compliance with any other applicable rules.

b. If the licensing agency is unable to determine substantial compliance with the plan from these documents, the licensing agency may conduct an on-site survey or

investigation to determine whether the facility substantially complied with the plan.

c. If the licensing agency determines that the facility failed to comply with the provisions of its plan, the facility shall not be allowed to reopen.

9. If it is necessary for a residential home to temporarily relocate beds and/or increase the number of beds in the home as a result of a declared disaster, the residential home may request a waiver from the licensing agency to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its clients. Extension requests will be considered on a case-by-case basis and must include a plan of action which specifies timelines in which the beds will either be moved back to the original licensed location or permanently relocated as specified in Subparagraphs 10.a-b.

10. The permanent relocation of residential home beds as a result of a declared disaster or other emergency must be approved by the Office for Citizens with Developmental Disabilities and the Bureau of Health Services Financing, Health Standards Section in order to assure that:

a. the new location has either the same number or fewer of the previously licensed beds; and

b. the location of the residents' family members is taken into consideration in the selection of the new site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:0000 (December 2006), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2722 (December 2007).

§1929. Residential Home Module

A. Organization and Administration

1. Capacity

a. A provider shall have a capacity of 17 or more clients.

2. Human Resources

a. Staff Coverage

i. A provider shall have adequate and trained direct service staff coverage considering the ages, needs, and functioning levels of clients.

Client-Living Services

ii. A provider shall ensure that direct services staff performing client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

3. Quality of Life

a. Normalization

i. A provider shall ensure that:

(a) clients of grossly different ages, developmental levels, and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together.

(b) clients who are mobile-nonambulatory, deaf, blind, epileptic, and so forth, shall be integrated with peers of comparable social and intellectual development, and shall not be segregated on the basis of their handicaps.

4. Recreation and Activities Programs

a. A provider shall have a written plan for providing recreational services based on the individual needs, interests, and functioning levels of clients served.

i. Periodic surveys of a client's recreational interests, records of the client's extent and level of participation in recreation and activities programs and reports evaluating and summarizing the client's needs, strengths, and progress relative to recreation and activities shall be maintained in the client's case record.

ii. There shall be evidence that recreation staff are appropriately informed of client's needs, problems, and service plans; communicate routinely with other direct service staff concerning clients; and have means of providing in-put.

b. A provider shall have sufficient, adequately qualified recreation staff; adequate recreation spaces and facilities accessible to clients regardless of their disabilities; and recreation equipment and supplies of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan.

5. Food Services

a. A provider shall have an organized, adequately staffed system of food services supervised by a qualified dietitian or an appropriately qualified person. This dietitian or person shall be responsible for:

- i. menu planning;
- ii. initiating food orders or requisitions;
- iii. establishing specifications for food purchases and insuring that such specifications are met;
- iv. storing and handling of food;
- v. food preparation;
- vi. food serving;
- vii. maintaining sanitary standards in compliance with state and local regulations; and
- viii. orientation, training, and supervision of food service personnel.

b. a provider shall ensure that any modified diet for a client shall be:

- i. prescribed by the client's physician and service plan with a record of the prescription kept on file;
- ii. planned, prepared, and served by persons who have received adequate instruction;
- iii. periodically reviewed and adjusted as needed.

c. A provider shall ensure that food is served to clients in appropriate quantity; at appropriate temperatures; in a form consistent with the development level of the client; and with appropriate utensils.

d. A provider shall ensure that dry or staple food items are stored at least twelve inches above the floor, in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin.

e. A provider shall ensure that perishable foods are stored at the proper temperatures to conserve nutritive values.

f. A provider shall ensure that food served to a client and not consumed is discarded.

g. A provider shall show evidence of effective procedures for cleaning all equipment and work area

i. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

h. A provider shall ensure that all clients, including the mobile nonambulatory, eat or are fed in dining rooms, except where contraindicated for health reasons or by the client's service plan.

i. Table service shall be provided for all clients who can and will eat at table, including clients in wheelchairs.

ii. Dining areas in a facility shall be equipped with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each client.

iii. Dining rooms in a facility shall be adequately supervised and staffed for the direction of self-help dining procedures, and to assure that each client receives an adequate amount of food.

iv. Clients shall be provided with systematic training to develop appropriate eating skills, utilizing adaptive equipment where it serves the development process.

v. Direct-care staff shall be trained in and shall utilize proper feeding techniques.

vi. Clients shall eat in an upright position unless medically contraindicated.

vii. Clients shall eat in a manner consistent with their developmental needs.

6. Health Care

a. A provider shall have an organized system of health and medical care services and shall provide adequate personnel, space, facilities, and equipment for the provision of such services.

i. The provider shall have access to electroencephalographic services.

b. A provider shall ensure:

i. tuberculosis control, in accordance with the State Sanitary Code as appropriate to the provider's population; and

ii. reporting of communicable diseases and infections in accordance with law.

c. A provider shall show evidence that hospital and laboratory services used by the provider are properly licensed and/or certified.

i. Physicians shall participate, when appropriate, in the continuing interdisciplinary evaluation of individual clients for the purposes of initiation, monitoring, and follow-up of service plans.

7. Nursing Services

a. A provider shall ensure that clients are provided with nursing services in accordance with their needs.

b. Nursing services to client shall include as appropriate registered nurse participation in:

- i. the preadmission study;
- ii. the service plan and any reviews and revisions of the service plan;
- iii. the development of aftercare plans;
- iv. the referral of clients to appropriate community resources;

v. training in habits in personal hygiene, family life, sex education (including family planning and venereal disease counseling);

vi. control of communicable diseases and infections, through identification and assessment; reporting to medical authorities; and implementation of appropriate protective and preventive measures;

vii. Modification of the nursing part of the service plan, in terms of the client's daily needs, at least annually for adults and more frequently for children, in accordance with developmental changes.

c. A registered nurse shall participate, as appropriate, in the planning and implementation of training of direct service personnel including training in:

i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

ii. basic skills required to meet the health needs and problems of the client;

iii. first aid in the event of accident or illness.

d. A provider shall have available sufficient, appropriately qualified nursing staff, which may include currently licensed practical nurses and other supporting personnel, to carry out the various nursing service activities.

i. the individual responsible for delivery of nursing services shall have knowledge and experience in the field of developmental disabilities.

ii. Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications; delegated authority commensurate with their responsibility; and provided appropriate professional nursing supervision.

8. Pharmacy Services

a. A provider shall ensure that pharmacy services are provided under the direction of a qualified licensed pharmacist.

i. There shall be a formal arrangement for qualified pharmacy service, including provision for emergency service.

b. A provider shall have a current pharmacy manual that includes policies and procedures, and defines the functions and responsibilities relating to pharmacy services; this manual shall be revised annually to keep abreast of current developments in services in management techniques.

i. There shall be a formulary system approved by the responsible physician and pharmacist, and by other appropriate provider staff.

c. The pharmacist shall:

i. receive the original, or a direct copy of the physician's drug treatment order;

ii. maintain for each client an individual record of all medications (prescription and nonprescription) dispensed, including quantities and frequency of refills;

iii. participate, as appropriate, in the continuing interdisciplinary evaluation of individual clients for the purposes of initiation, monitoring, and follow-up of service plans;

iv. establish quality specifications for drug purchases and ensure that they are met.

d. Qualified pharmacy or medical personnel shall:

i. regularly review the record of each client on medication for potential adverse reactions, allergies, interactions, contraindications, rationality, and laboratory test modifications.

ii. advise the physician of any recommended changes, stating the reasons for such changes and providing an alternate drug regimen.

e. Poisons, drugs used externally, and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations.

f. Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate compartment with proper security.

g. If there is a drug storeroom separate from the pharmacy, there shall be a perpetual inventory of receipts and issues of all drugs by such storeroom.

h. Discontinued and outdated drugs, and containers with worn, illegible or missing labels, shall be returned to the pharmacy for proper disposition.

i. There shall be an effective drug recall procedure that can be readily implemented.

j. There shall be a procedure for reporting adverse drug reactions to the federal Food and Drug Administration.

k. A provider shall have written policies and procedures that govern the safe administration and handling of all drugs developed by the responsible pharmacist, physician, nurse, and other professional staff, as appropriately to the provider.

l. A provider shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

m. The compounding, packaging, labeling, and dispensing of drugs including samples and investigational drugs, shall be done by the pharmacist, or under his supervision, with proper controls and records.

n. Each drug shall be identified up to the point of administration.

o. Whenever possible, drugs that require dosage measurement shall be dispensed by the pharmacist in a form ready to be administered to the client.

p. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

q. All drugs shall be kept under lock and key except when authorized personnel are in attendance.

r. The security requirements for drugs of federal and state laws shall be satisfied in storerooms, pharmacies, and living units.

9. Dental Services

a. A provider shall have an organized system for providing comprehensive diagnostic dental services for all clients which include a complete extra and intra-oral examinations, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition, within a period of 1 month following admission unless such an examination shall be in the client's case record.

b. A provider shall have access to comprehensive dental treatment services for all clients which include:

i. provision for dental treatment;

ii. provision for emergency treatment on a 24-hour, seven-days a-week basis by a qualified dentist;

iii. a recall system that will assure that each client is reexamined at specified intervals in accordance with his/her needs, but at least annually.

c. A provider shall have a dental hygiene program that includes imparting information regarding nutrition and diet control measures to clients and staff, instruction of clients and staff in living units in proper oral hygiene methods, and instruction of family in maintenance of group oral hygiene, where appropriate.

d. A summary dental progress report shall be entered in the client's unit record at state intervals.

e. A copy of the permanent dental record shall be provided to a provider to which a client is transferred.

f. There shall be available sufficient, appropriately qualified dental personnel and necessary supporting staff to carry out the dental services program.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:2151-2163, R.S.46:1401-1424, R. S.28:1-2, R.S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2735 (December 2007).

§1931. Direct Services Management

A. Professional and Special Programs and Services

1. A provider shall have access to the following services in accordance with the needs of clients:

- a. physical and/or occupational therapy;
- b. speech pathology and audiology;
- c. psychological services;
- d. social work services;
- e. training and habilitation services.

2. A provider shall ensure that all providers of professional and special services:

- a. provide services directly through personal contact with the client;
- b. provide services indirectly through contact with staff members and others working with the client;
- c. develop and record appropriate plans, goals, and objectives for the client and, as appropriate, the client's family;
- d. record all significant contacts with the client;
- e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service and the client's progress to be maintained in the client's case record;
- f. participate, as appropriate, in the development, implementation, and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

- a. adequately qualified and, where appropriate, appropriately licensed or certified staff according to state and federal law;
- b. adequate space and facilities.
- c. appropriate equipment;
- d. adequate supplies;
- e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

B. Physical Therapy and/or Occupational Therapy

1. Physical therapy and occupational therapy staff shall provide treatment training programs that are designed to:

- a. preserve and improve abilities for independent functioning such as range of motion, strength, tolerance, coordination, and activities of daily living;
- b. prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of

orthopedic and prosthetic appliances, assertive and adaptive devices, positioning, behavior adaptations, and sensory stimulation.

2. The therapist shall function closely with the client's primary physician and with other medical specialists.

3. Physical and occupational therapy personnel shall be:

- a. assigned responsibilities in accordance with their qualifications;
- b. delegated authority commensurate with their responsibilities;
- c. provided appropriate professional direction and consultation.

C. Speech Pathology and Audiology

1. Speech pathology and audiology services available to the provider shall include:

- a. screening and evaluation of clients with respect to speech and hearing functions;
- b. comprehensive audiological assessment of client as indicated by screening results, to include tests of puretone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment of the use of visual cues;
- c. assessment of the use of amplification;
- d. provision for procurement, maintenance, and replacement of hearing aids, as specified by a qualified audiologist;
- e. comprehensive speech and language evaluation of residents, as indicated by screening results, including appraisal of articulation, voice, rhythm, and language.
- f. treatment service, interpreted as an extension of the evaluation process, that include: direct counseling with the client; consultation with appropriate staff for speech improvement and speech education activities; collaboration with appropriate staff to develop specialized programs for developing the communication skills of clients in comprehension, and expression, and participation in in-service training programs for direct care and other staff.

2. Adequate, direct and continuing supervision shall be provided personnel, volunteers, or supportive personnel utilized in providing speech pathology and audiology services.

D. Psychological Services

1. A provider shall provide psychological services, as appropriate to the needs of the clientele, including strategies to maximize each client's development of:

- a. perceptual skills;
- b. sensorimotor skills;
- c. self-help skills;
- d. communications skills;
- e. social skills;
- f. self direction;
- g. emotional stability;
- h. effective use of time (including leisure time);
- i. cognitive skills.

2. There shall be available sufficient, appropriately qualified psychological services staff, and necessary supporting personnel, to carry out the following functions:

- a. psychological services to clients, including evaluation, consultation, therapy, and program development;
- b. administration and supervision of psychological services;
- c. Participation in direct service staff training.

3. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

E. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services, shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of his family;
- c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. during the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. during the client's admission to and residence in the provider or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family, and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate;
- e. help the family to participate in planning for the client's return to home or other community placement.

4. After the client leaves the provider, the provider's social workers shall provide systematic follow-up to assure referral to appropriate community providers.

F. Training and Habilitation Services

1. Training and habilitation services defined as the facilitation of or preventing the regression of intellectual, sensorimotor, and affective development of the client shall be available to all clients, regardless of chronological age, degree of retardation, or accompanying disabilities or handicaps.

2. Individual evaluations of clients relative to training and habilitation shall:

- a. Be based upon the use of empirically reliable and valid instruments, whenever such tools are available;
- b. Provide the basis for prescribing an appropriate program of training experiences for the client;
- c. Identify priority areas to be addressed.

3. There shall be evidence of training and habilitation services activities designed to meet the training and habilitation objectives set for every client.

4. There shall be a functional training and habilitation record for each client maintained by, and available to, the training and habilitation staff.

5. Appropriate training and habilitation programs shall be provided to clients with hearing, vision, perceptual, or motor impairments, in cooperation with appropriate staff.

AUTHORITY NOTE: Promulgated in accordance with R.S.40:2151-2163, R. S.46:1401-1424, R. S.28:1-2, R. S.28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2738 (December 2007).

§1933. Physical Environment

A. Exterior Space

1. A provider shall have at least 75 square feet of accessible exterior space for each client.

B. Interior Space

1. A provider shall have a minimum of 60 square feet of floor area for each client in interior living areas accessible to clients and excluding halls, closets, bathrooms, offices, staff quarters, laundry areas, storage areas, and any other areas not accessible to or usable by clients for normal social and recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2739 (December 2007).

§1935. Fee

A. There shall be an annual fee for the license as determined by the Division of Licensing and Certification based on capacity if a client or clients under the age of 18 years are cared for in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2151-2163, R.S. 46:1401-1424, R.S. 28:1-2, R.S. 28:380-451.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007).

§1951. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007).

§1953. Authority

A. Legislative Provisions

1. The Louisiana Committee on Private Child Care is charged with the responsibility of developing standards for the licensing of Class "B" facilities.

2. The licensing authority of the Department of Social Services is established by LRS 46:1401 et seq. and LRS 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class "B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As stipulated in RS 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75, nor more than \$250 for each day of such offense.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter" (RS 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

D. The Louisiana Committee on Private Child Care (Class "B" Child Care Committee)

1. The Louisiana Committee on Private Child Care was created by Act 286 of 1985 to serve two functions.

a. Develop minimum standards for licensure of Class "B" facilities.

b. Consult with the department on matters pertaining to decisions to revoke or refuse to grant a Class "B" license.

2. The Committee is composed of seven members, elected by the Class "B" licensed facilities in the state, representing different types of Class "B" licensed facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007).

§1955. Procedures

A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the City Fire Department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by Department of Social Services, Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078, phone: (225) 922-0015, fax: (225) 922-0014.

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable); and
- v. City or Parish Building Permit Office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; Office of City Fire Department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

- i. approval by the Office of Public Health, Sanitarian Services;
- ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;
- iii. approval by the City Fire Department (if applicable);
- iv. approval by the City or Parish Zoning (if applicable);
- v. approval by the City or Parish Building Permit (if applicable);
- vi. a completed licensure inspection verifying substantial compliance with these standards; and
- vii. full license fee paid.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required from the previous owner assuring change of ownership; e.g.,

letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" child care facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

- a. 4 to 6 children - \$400;
- b. 7 to 15 children - \$500; and
- c. 16 or more children - \$600.

3. Other licensure fees include:

a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge when the request coincides with the regular renewal of a license.); and

b. processing fee of five dollars for issuing a duplicate license with no changes.

C. Relicensing

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. Generally, all licenses expire on the last day of the month.

2. Approximately 90 days prior to the annual expiration of a license, a notice and an application form will be mailed to the licensee. The completed application along with the full license fee, if applicable, shall be returned prior to relicensure.

3. A relicensing inspection will be made by staff of the Bureau of Licensing to determine continued compliance with licensing regulations.

4. A current approval from the Office of State Fire Marshal, Code Enforcement and Building Safety; the City Fire Department (if applicable); and the Office of Public Health, Sanitarian Services shall be received by the Bureau of Licensing. It is the responsibility of the licensee to obtain these inspections and approvals.

5. The Department of Social Services, Bureau of Licensing, shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, administrator, hours/months/days of operation, ownership, location, etc.

D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure; or

b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:

- i. the applicant;
- ii. any members or officers if the applicant is a firm or corporation; or
- iii. any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure.

E. Appeal Procedure. If the license is refused or revoked because the facility does not meet minimum requirements for licensure, the procedure is as follows:

1. The Department of Social Services, Bureau of Licensing, by certified letter, shall advise the licensee or applicant of the reasons for the denial or revocation and the right of appeal.

2. The administrator or owner may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P.O. Box 2944, Baton Rouge, LA 70821. This written request shall be postmarked within 30 days of the receipt of the notification in §7955.E.1 above.

3. The Bureau of Appeals shall set a hearing after receipt of such a request.

4. An Appeals Hearing Officer shall conduct the hearing. The Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the facility shall terminate operation immediately.

5. If the facility continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007).

§1957. Definitions

Abuse and Neglect Reporting—any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation. The Administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.

Bedroom Space—a distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

Client—a person who receives service from a provider.

Client's Service Plan—a daily care plan based on the assessment of a client's psychological, social and educational evaluations.

Curator—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

DSS—Department of Social Services.

Discipline—a system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

Direct Service Management—the act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

Direct Service Worker—any employee of a provider who works directly with clients as a major function of his/her job.

Family—the natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

Governing Body—a person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the Board of Directors.

Legally Responsible Person—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

License—a written certification, whether provisional, extended or regular, of a provider's authorization to operate under State Law.

Living Unit—an integral living space utilized by a particular group of clients who reside in that space.

Parent(s)—natural or adoptive mother and father of a client.

Passive Physical Restraint—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

Provider—any 24-hour residential facility, whether public or private, that services clients.

Psychotropic Medication—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; e.g., anticonvulsants or hormones.

Restraint—the extraordinary restriction of a client's freedom or freedom of movement.

Service Plan—a comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

Social Worker—a Master's level professional.

Time-Out Procedure—the isolation of a client for a period of less than 30 minutes in an unlocked room.

Training—any activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

Treatment Strategy—an orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007).

§1959. Administration and Organization

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission. Class "B" facilities must comply with additional regulations promulgated by the Louisiana Committee on Private Child Care. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

B. General Requirements

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. The provider is required to show evidence of compliance with the regulations set by the Louisiana Committee on Private Child Care. Documentation indicating compliance with a standard will not be required when it is obvious that the standard is met.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by

federal, state, local and municipal regulatory bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, City Fire Marshal's Office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

D. Governing Body

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

6. designate a person to act as Chief Administrator and delegate sufficient authority to this person to manage the provider;

7. formulate and annually review, in consultation with the Chief Administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the Chief Administrator's performance;

9. have the authority to dismiss the Chief Administrator;

10. meet with representatives of DSS whenever required to do so;

11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documents identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.

4. A provider shall, upon request, make available information in the case record to the client, the legally responsible person or legal counsel of the client. If, in the professional judgement of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.

5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;
2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;
3. documentation of the provider's authority to operate under state law;
4. organizational chart of the provider;
5. insurance policies; and
6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;

2. other identification data including court status, legal status, who is authorized to give consents;

3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and

5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:

- a. report of admission physical examination;
- b. complete record of all immunizations provided;
- c. record of medications;
- d. records of vision, physical or dental examinations;
- e. complete record of any medical treatment provided for specific illness or medical emergencies; and,
- f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.

2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

- a. allergies to medication;
- b. immunization history;
- c. history of serious illness, serious injury or major surgery;
- d. developmental history;
- e. current use of prescribed medication;
- f. current use of alcohol or nonprescribed drugs; and
- g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:

- a. application for employment and/or resume ;
- b. three reference letters from former employer(s) and personal references or phone notes on such references;
- c. any medical examinations required by the provider;
- d. criminal record and fingerprinting report (LA 15.587.1) and citizenship report (I-9). No felon shall be employed in a Class "B" facility unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer;

- e. evidence of applicable professional credentials/certifications according to state law;
- f. annual performance evaluations;
- g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility; and
- h. employee's starting and termination dates.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

P. Fund Raising and Publicity

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.

2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.

3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.

4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

Q. Representation at Hearings. A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007).

§1961. Human Resources

A. Staff Plan. A provider should have a policy for recruitment, supervision and training.

1. Screening

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

- i. in good health and physically able to care for clients; and
- ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest

x-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. **Orientation.** A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

3. Training

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

4. Evaluation

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

B. Personnel Practices. A provider shall have written personnel policies and written job descriptions for each staff position.

C. Number and Qualifications of Staff

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

- a. administrative functions;
- b. fiscal functions;
- c. clerical functions;
- d. housekeeping, maintenance and food service functions;
- e. direct client service functions;
- f. supervisory functions;
- g. record keeping and reporting functions;
- h. social service functions; and
- i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively

responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;
2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;
3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student; and
4. aware of and briefed on any special needs or problems of clients.

F. Staff Communications

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client. This system of communication shall include:

- a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;
- b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and
- c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

2. Any employee of a provider working directly with clients in care shall have access to information from clients' case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007).

§1963. Quality of Life

A. Family Involvement

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

- a. the philosophy and goals of the provider;
- b. behavior management and disciplinary practices of the provider;
- c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;

d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;

e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;

f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

B. Normalization. A provider shall ensure that:

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together.

2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

C. Community Involvement

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

D. Communication and Visits

1. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

2. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and

shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

3. Visits

a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

d. A written description of these rules and procedures is suggested.

E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.

2. Routines should be determined in relation to needs and convenience of both clients and adults living together.

3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.

2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.

3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.

4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.

5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.

6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

a. such work is voluntary and in accordance with the client's abilities;

b. the work has been approved by staff;

c. such work is supervised by qualified personnel;

d. the conditions and compensation of such work are in compliance with applicable State and Federal laws; and

e. such work does not conflict with the client's service plan.

H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be

governed by rules about hours when viewing is allowed and about choice of programs.

I. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

a. ongoing appraisal of the general health of each client;

b. provision for health education, as appropriate;

c. establishment of an ongoing immunization program;

d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;

e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;

f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;

g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated, and for annual re-examinations; and

h. access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to the needs of clients.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

a. an examination of the client for physical injury and disease;

b. vision and hearing screening; and

c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest x-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:

- a. provision for dental treatment;
- b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;
- c. a recall system that will assure that each client is re-examined at specified intervals in accordance with his/her needs, but at least annually.

3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:

- a. psychological services;
- b. psychiatric services; and
- c. social work services.

2. A provider shall ensure that all providers of professional and special services:

- a. provide services directly through personal contact with the client;
- b. provide services indirectly through contact with staff members and others working with the client;
- c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;
- d. record all significant contacts with the client;
- e. periodically provide written summaries of the client's response to the service, the client's current status relative to the service, and the client's progress, to be maintained in the client's case record;
- f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;
- g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

- a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;

- b. adequate space and facilities;
- c. appropriate equipment;
- d. adequate supplies; and
- e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

- a. maximizing the social functioning of each client;
- b. enhancing the coping capacity of the client's family; and
- c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

- a. assist staff in understanding the needs of the client and his/her family in relation to each other;
- b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;
- c. assist staff in preparing the client for changes in his/her living situation;

d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and

e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

2. There shall be no standing orders for prescription medications.

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

7. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

X. Reports on Critical Incidents

1. A provider shall require Social Service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

3. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety or well-being, a provider shall:

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and,

e. ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2746 (December 2007).

§1965. Direct Service Management

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

a. the age and sex of clients in care;

b. the needs, problems, situations or patterns best addressed by the provider's program;

c. any other criterion for admission;

d. criteria for discharge;

e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;

f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as

appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

B. Intake Evaluation

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;

b. formalize this in an "emergency admission note" within two days of admission; and,

c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

a. discussion of the client's and the family's expectations regarding family contact and involvement;

b. nature and goals of care, including any specialized services to be provided;

c. religious orientation and practices of the client;

d. anticipated discharge date and aftercare plan;

e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;

f. authorization to care for the client;

g. authorization to obtain medical care for the client;

h. arrangements regarding visits, vacation, mail, gifts and telephone calls;

i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;

j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and

injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

a. name and home address of the client and, when appropriate, the legally responsible person;

b. name, address, telephone number of the provider;

c. summary of services provided during care;

d. summary of growth and accomplishments during care;

e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and

f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

a. supervision of the implementation of the client's service plan;

b. integration of the various aspects of the client's program;

c. recording of the client's progress as measured by objective indicators;

d. reviewing the client's service plan on a quarterly basis; and

e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any

special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G. Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.

2. All clients must have an opportunity to build relationships within small groups.

3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be

fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful non-interference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

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27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2750 (December 2007).

§1967. Physical Environment

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

B. Exterior Space

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high-speed roads, shall be fenced off or have natural barriers to protect clients.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.

3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

C. Interior Space

1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.

2. A provider shall provide an appropriate variety of interior recreational spaces.

3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.

4. Dining Areas

a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.

b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.

5. Sleeping Accommodations

a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.

b. A provider shall not use a room with a ceiling height of less than seven feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least seven feet allow a useable space.

c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.

d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the

persons occupying the bedroom are a married couple, or properly documented medical reasons require it.

e. A provider shall not use any room which does not have a window as a bedroom space.

f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than thirty inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.

g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.

i. Enuretic clients shall have mattresses with moisture-resistant covers.

ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.

i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.

k. Each client in care of a provider shall have his/her own designated area for rest and sleep.

1. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

6. Bathrooms

a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.

i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

ii. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

iii. Tubs and showers shall have slip-proof surfaces.

b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.

c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.

d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.

e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.

f. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall at all times be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

7. Kitchens

a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.

b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.

c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.

8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a mechanical ventilation system is provided with windows that have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

13. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

14. Heat

a. A provider shall take all reasonable precautions to ensure the heating elements, including exposed hot water pipes, are insulated or installed in a manner that ensures the safety of clients.

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2753 (December 2007).

§1969. Emergency and Safety

A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to State Law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with State Law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients:

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:0000 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2754 (December 2007).

Part III. Office of Family Support

Subpart 21. Child Care Licensing

Chapter 73. Day Care Centers

Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7301. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well-being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and placement agencies and to encourage and assist in the improvement of programs.

B. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Social Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or facility sponsored by a church or religious organization so long as the civil and human rights of the clients and residents are not violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007).

§7302. Authority

A. Legislative Provisions. The State of Louisiana, Department of Social Services, is charged with the responsibility for developing and publishing standards for the licensing of child care centers. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq. (Act 367 of 1956 and amended by Act 152 of 1962, Act 241 of 1968, Act 290 of 1976, Act 678 of 1977, Act 409 of 1978, Act 286 of 1985, Act 1463 of 1997 and Act 1237 of 1999) making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. In accordance with Act 1237 of the 1999 Legislative Session, a child care center is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver. A recognized religious organization which is qualified as a tax-exempt

organization under Section 501(c) of the Internal Revenue Code and does not operate more than 24 hours in a continuous 7-day week is not considered a child care center.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency shall be licensed.

2. The law provides a penalty for operation of a center without a valid license. The penalty for operation without a valid license is a fine of not less than \$75 nor more than \$250 for each day of operation without a license.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services, through its duly authorized agents, to inspect at regular intervals not to exceed one year or as deemed necessary by the department and without previous notice all child care facilities and child-placing agencies subject to the provisions of the Chapter (R.S. 46:1401 et seq.).

2. Whenever the department is advised or has reason to believe that any person, agency or organization is operating a non-exempt child care facility without a license, the department shall make an investigation to ascertain the facts.

3. Whenever the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Child Care Center Class A Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment of children coming to the attention of the Department of Social Services will be investigated.

D. The Louisiana Advisory Committee

1. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies was created by Act 286 of 1985 to serve three functions:

a. to develop new minimum standards for licensure of Class "A" facilities ("New" meaning the first regulations written after Act 286 of 1985);

b. to review and consult with the Department of Social Services on all revisions written by the Bureau of Licensing after the initial regulations and to review all standards, Rules, and regulations for Class "A" facilities at least every three years; and

c. to advise and consult with the Department of Social Services on matters pertaining to decisions to deny, revoke or refuse a Class "A" license.

2. The committee is composed of 19 voting members, appointed by the governor, including provider and consumer representation from all types of child care services, the educational and professional community and the director of the Bureau of Licensing who serves as an ex-officio member.

E. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007).

§7303. Procedures

A. Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances in the area where the facility is to be located. Standards from Office of Public Health, Sanitarian Services; Office of the State Fire Marshal, Code Enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing building, obtain an application form issued by:

Department of Social Services

Bureau of Licensing

P. O. Box 3078

Baton Rouge, LA 70821-3078

Phone: (225) 922-0015

Fax: (225) 922-0014

Web address: www.dss.state.la.us/offos/html/licensing.html

c. The completed application shall indicate Class "A" license. Anyone applying for State or Federal funding shall apply for Class "A" license. Licensure fees are required to be paid by all providers. A Class "A" license may not be changed to a Class "B" license if revocation procedures are pending.

d. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a center:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable); and
- v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the bureau will request the Office of State Fire Marshal, Office of City Fire Department (if applicable), Office of Public Health and any known required local agencies to make an inspection of the location, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals.

f. A licensing specialist will visit the center to conduct a licensing survey.

g. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

- i. state fire approval;
- ii. city fire approval (if applicable);
- iii. health approval;
- iv. zoning approval (if applicable);

- v. full licensure fee paid;
- vi. director meets qualifications;
- vii. director designee meets qualifications (if applicable);
- viii. three current, positive, signed references on director;
- ix. three current, positive, signed references on director designee (if applicable); and
- x. licensure survey verifying compliance with all minimum standards.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7303.A.2.g shall be submitted, except references and director/director designee qualifications if the director/director designee remains the same.

4. When a center changes ownership, the following information must be submitted prior to the sale or day of the sale in order for a license to be issued:

- a. a new application;
- b. full licensure fee;
- c. current health and state fire approval;
- d. city fire approval (if applicable);
- e. documentation of director qualifications as listed in §7310.A and B;
- f. letter from previous owner noting sale of child care business;
- g. documentation of director designee qualifications as listed in §7310.A and B (if applicable);
- h. three current, positive signed references on the director;
- i. three current, positive, signed references on director designee (if applicable); and
- j. copy of bill of sale.

NOTE: If the above information is not received prior to the sale or day of the sale, the new owner must not operate until a license is issued. When the application is received, it will be treated as an initial application rather than a change of ownership.

5. When a center changes class type, the following information shall be submitted to the bureau prior to the issuance of the new license:

- a. written request from the provider;
- b. full licensure fee;
- c. documentation of commercial liability insurance in accordance with §7305.B and §7331.J; and
- d. documentation of director/director designee qualifications as listed in §7310.A and B.
- e. verification of substantial compliance with current child care regulations.

6. A license shall be valid only for the address on the application to a particular owner and is not transferable to another person or location or subject to sale. Two licenses shall not be issued simultaneously for the same physical address.

7. When a business is sold, discontinued, the operation has moved to a new location, or the license has been revoked, the current license immediately becomes null and void.

8. All new construction or renovation of a center requires approval from the agencies listed in §7303.A.2.d and the Bureau of Licensing prior to occupying the new space.

9. The bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to provider's failure to maintain compliance with minimum standards.

B. Fees

1. All fees shall be paid by certified check or money order only and are non-refundable.

2. An application fee of \$25 shall be submitted with all initial applications. This fee will be applied toward the total licensure fee which is due prior to licensure of the provider. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all change of ownership applications. The full licensure fee shall be paid for all class changes.

3. Annual licensure fees are required prior to renewal of the license. License fee schedules (based on capacity) are listed below:

15 or fewer: \$25
16 - 50: \$100
51 - 100: \$175
101 or more: \$250

4. Other licensure fees:

a. A replacement fee of \$25 for any provider replacing a license when changes to the license are requested, e.g., change in capacity, name change, age range change, transportation change. (There is no processing charge when the request coincides with regular renewal of license.)

i. Capacity increase is effective when the following is received and approved by the bureau: written, signed request; fee; state fire approval; city fire approval (if applicable); state health approval; and measurement of the additional space by the bureau.

ii. Transportation addition is effective when the following is received and approved by the bureau: written, signed request; fee; copy of appropriate driver's license(s); and insurance.

iii. Name change, age range change, and addition of nighttime care is effective when the request and fee are received and approved.

iv. Change in director/director designee does not require a fee; however, documentation of qualifications and three reference letters are needed in order to process the request.

b. A processing fee of \$5 for issuing a duplicate license with no changes.

C. Relicensing

1. The annual relicensing survey is similar to the original licensing survey. Documentation of the previous 12 months' activity shall be available for review. The director will have an opportunity to review the survey deficiencies (if any).

2. A license is issued for a period of up to one year based upon provider's compliance with minimum standards. Before expiration of the license, re-inspections by the Office of Public Health, Sanitarian Services; Office of the State Fire Marshal, Code Enforcement and Building Safety; City Fire (if applicable) and the Bureau of Licensing shall be required.

3. If the survey reveals that the provider is not meeting minimum requirements, a recommendation will be made to the Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies that the license be revoked or not renewed.

4. The bureau shall be notified prior to making changes which may have an effect upon the license, e.g., age range of children served, usage of indoor and outdoor space, director, hours/months/days of operation, transportation, etc.

D. Denial, Revocation or Non-Renewal of License. An application for a license may be denied, or a license may be revoked, or renewal denied, for any of the following reasons:

1. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, Rules, regulations or orders promulgated by the Department of Social Services;

2. cruelty or indifference to the welfare of the children;

3. conviction of or a plea of guilty or nolo contendere of a felony, or any offense of a violent or sexual nature, or any offense involving a juvenile victim;

a. or, if the applicant is a firm or corporation, any of its board members or officers;

b. or, the person designated to manage or supervise the center;

4. hiring or continued employment of any individual (paid or non-paid staff) convicted of a felony or a plea of guilty or nolo contendere of a felony or any offense of a violent or sexual nature or any offense involving a juvenile victim;

5. if the owner or director of the center is not reputable;

6. if the owner, director or a member of the staff is temperamentally or otherwise unsuited for the care of the children in the center;

7. history of noncompliance;

8. failure of the owner of the center to hire a qualified director;

9. disapproval from any agency whose approval is required for licensure;

10. non-payment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

11. any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the provider;

12. the center is closed and there are no plans for immediate re-opening and no means of verifying compliance with minimum standards for licensure;

13. any act of fraud such as falsifying or altering documents required for licensure;

14. provider refuses to allow the bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.;

15. presence or use of any recalled product by the provider that is listed in the newsletters issued by the Office of the Attorney General; or

16. failure to attend any mandatory training session offered by the bureau.

E. Appeal Procedure. If the license is refused, revoked or denied because the provider does not ensure the compliance

with the minimum requirements for licensure, the procedure is as follows.

1. The Department of Social Services, Bureau of Licensing, shall advise the director by certified letter of the reasons for refusal, revocation, or denial and the right of appeal.

2. The director may appeal this decision by submitting a written request with the reasons to the Secretary of the Department of Social Services. Write to Department of Social Services, Bureau of Appeals, P. O. Box 2944, Baton Rouge, LA 70821-9118. This written request shall be post-market within 30 days of the director's receipt of the above notification.

3. The Bureau of Appeals shall set a hearing within 30 days after receipt of such a request. An appeals hearing officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the hearing officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the appeal is denied, the provider shall terminate operation of the center immediately.

4. If the provider continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the center is located for injunctive relief.

F. Required Notification. Within 24 hours or the next workday, the director shall notify the bureau of the following reportable incidents. A verbal report is to be followed by a written report:

1. any death of a child while in the care of the provider;

2. any illness or injury requiring hospitalization or professional medical attention other than first aid of a child while in the care of the provider;

3. any fire;

4. any structural disaster;

5. any emergency situation that requires temporarily relocating children;

6. any unusual situation which affects the care of a child or children, e.g. child left unsupervised in the center, on the van, in play yard, on field trip, extended loss of power, water service, gas, etc.; or

7. any child leaving the center unsupervised or with an unauthorized person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007).

§7304. Definitions

Anniversary—center's licensure year, determined by the month in which the initial license was issued to the provider/center and in which the license is eligible for renewal each year.

Bureau—the Bureau of Licensing of the Department of Social Services.

Capacity—the number of children the provider is licensed to care for at any given time based on usable indoor and outdoor square footage as determined by the bureau.

Center—a child care facility as defined in §7302.A.1.

Center Staff—all full or part-time paid or non-paid staff who perform routine services for the child care center and have direct or indirect contact with children at the center. Center staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, driver, substitutes, and foster grandparents excluding extra-curricular personnel.

Change of Location—change of physical address of facility.

Change of Ownership—transfer of ownership to someone other than the owner listed on the initial application. Ownership of the center business, not the building, determines the owner. Sale of a corporation also constitutes a change of ownership. Leasing of a child care business is not considered a change of ownership, but an initial application.

Clock Hour—involvement or participation in a learning situation for 60 minutes.

Comparable Setting—experience with pre-k, kindergarten or first grade, or the operator of a registered family day home.

Department—the Department of Social Services of the state of Louisiana.

Direct Supervision—visual contact at all times.

Director—

Center Director—the on-site staff who is responsible for the day-to-day operation of the center as recorded with the Bureau of Licensing. For the purpose of these regulations the term director means center director or director designee, if applicable.

Director Designee—the on-site individual appointed by the director when the director is not an on-site employee at the licensed location. This individual shall meet director qualifications.

Executive Director—the owner or administrator. If on-site and responsible for the management, administration and supervision of the center, the executive director is also the center director. If not on-site or not functioning as center director, the executive director maintains responsibility for the management, administration and supervision of the center(s) through a center director or director designee.

Discipline—the ongoing positive process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

Documentation—written evidence or proof, signed and dated by parties involved (director, parents, staff, etc.), on site and available for review.

Existing Center—a provider with a valid license at a particular location prior to the effective date of these standards.

Extra-Curricular Personnel/Therapeutic Professionals—individuals who are not employees of the center, but who come to the center to provide therapy, services, or enrichment activities for an individual child or group of children. Examples: computer instructor, dance instructor, librarian, tumble bus personnel, therapeutic personnel (occupational therapist, physical therapist, speech therapist), nutritionist, early interventionist, nurse.

Group—the number of children assigned to a caregiver or team of caregivers occupying an individual classroom or well-defined space within a larger room on a consistent or daily basis.

Medication—all internal and external drugs, whether over-the-counter or prescribed.

Montessori School—a facility accredited as a Montessori School by the Board of Elementary and Secondary Education under R.S. 17:3401 et seq.

Nighttime Care—care provided after 9:00 p.m. and in which no individual child remains for more than 24 hours in one continuous stay.

Non-Vehicular Excursion—the children are not in the licensed area (play yard or center) and not in a vehicle.

Owner or Provider—a public or private organization or individual who delivers child care services for children.

Posted—prominently displayed in a conspicuous location in an area accessible to and regularly used by parents.

Shall or Must—mandatory.

Should—urged, advised or may.

Staff-in-Charge—the on-site staff appointed by the director as responsible for supervising the operation of the center during the temporary absence of the director.

Student Trainee—an individual who observes in the center as a course requirement, is never left alone with children, nor counted in the child/staff ratio.

Temporary Absence—absence for errands, conferences, etc.

Transportation—arranging or providing transportation of children for any reason including field trips and transportation by contract.

Visitor—anyone who enters the facility other than center staff, therapeutic professionals, extracurricular personnel, and in the case of a church or school, any other routine employees such as a pastor, principal, teacher, etc.

Water Activity—a water-related activity in which children, under adult supervision, are in, on, near, or immersed in a body of water such as swimming pools, wading pools, water parks, lakes, rivers or beaches, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2758 (December 2007).

§7305. General Requirements

A. A Louisiana child care license with current information and current expiration date shall be on display in an area accessible to and regularly used by parents and visitors, except for church affiliated centers (R.S. 46:1408.D) that choose to keep the license on file and available upon request.

B. The provider shall maintain in force at all times current commercial liability insurance for the operation of a center to ensure medical coverage for children in the event of accident or injury. The provider is responsible for payment of medical expenses of a child injured while in the provider's care. Documentation shall consist of the insurance policy or current binder that includes the name of the child care facility, physical address of the facility, name of the insurance company, policy number, period of coverage and explanation of the coverage.

C. Parents shall not be required to waive the provider's responsibility.

D. The provider shall have documentation of yearly sanitation inspection and current approval from the Office of Public Health, Sanitarian Services. If food is catered or transported, approval is needed from the health department.

E. The provider shall have documentation of yearly safety inspection and current approval from the Office of State Fire Marshal.

F. The provider shall have documentation of yearly safety inspection and current approval from the City Fire Department (if applicable).

G. The provider shall have certificate of occupancy (zoning), if applicable.

H. A daily attendance record for children, completed by the parent or center staff, including the time of arrival and departure of each child and the name of the person to whom the child was released, shall be maintained. This record shall accurately reflect the children on the child care premises at any given time. If the record is completed by center staff, that individual shall write the first and last name of the person to whom the child was released and sign his/her own name. Children who leave and return to the center during the day shall be signed in/out. A computerized sign in/out procedure is acceptable if the record accurately reflects the time of arrival and departure as well as the name of the person to whom the child was released.

I. A daily attendance record for staff, including the director/owner, to include the time of arrival and departure shall be maintained. Staff shall document in/out when not on the child care premises. This record shall accurately reflect persons on the child care premises at any given time.

J. The provider shall have an individual immediately available in case of emergency. The name and telephone number of the emergency person shall be posted near the telephone.

K. Any visitor to the center shall be accompanied by a staff person at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2759 (December 2007).

§7306. Policies and Procedures Related to Children

A. Prior to admission, the director, in consultation with the parent, shall determine that the individual needs of each child can adequately be met by the center's program and facilities. Provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations or patterns best addressed by its program.

B. A schedule of the day's plan of activities, allowing for flexibility and change, shall be posted. The program of activities shall be age-appropriate and shall be adhered to with reasonable closeness, but shall accommodate and have due regard for individual needs and differences among the children. The program shall provide time and materials for both vigorous and quiet activities for children to share or to be alone, indoor and outdoor play, and rest. Regular time shall be allowed for routines such as washing, lunch, rest, snacks and putting away toys. Active and quiet periods shall

be alternated so as to guard against over-stimulation of the child.

C. Programs/movies with violent or adult content (including soap operas) shall not be permitted in the presence of children.

D. Children five years and younger shall have a daily rest period of at least one hour. Providers that serve children in half-day programs are not required to schedule napping periods for these children.

E. While awake, children shall not remain in a crib/baby bed, swing, highchair, carrier, playpen, etc. for more than 30 consecutive minutes.

F. Discipline. The provider shall establish a policy in regard to methods of discipline. Any form of punishment that violates the spirit of this standard of discipline, even though it may not be specifically mentioned as forbidden, is prohibited. This written posted policy shall clearly state ALL types of positive discipline that are used and that the following methods of discipline are prohibited.

1. No child shall be subject to physical punishment, corporal punishment, verbal abuse or threats.

2. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted upon children.

3. Derogatory remarks shall not be made in the presence of children about family members of children in care or about the children themselves.

4. No child or group of children shall be allowed to discipline another child.

5. When a child is removed from the group for disciplinary reasons, he shall never be out of sight of a staff member.

6. No child shall be deprived of meals or snacks or any part thereof for disciplinary reasons.

G. Abuse and Neglect. As mandated reporters, all center staff shall report any suspected abuse and/or neglect of a child in accordance with R.S. 14:403 to the local child protection agency. This written policy as well as the local child protection agency's telephone number shall be posted.

H. Complaint Procedure. Parents shall be advised of the licensing authority of the bureau along with the current telephone number and address. Parents shall also be advised that they may call or write the bureau should they have significant, unresolved licensing complaints. This written policy as well as the current telephone number and address of the bureau shall be posted.

I. Open Door Policy. Parents shall be informed that they are welcome to visit the center anytime during regular hours of operation as long as their child is enrolled. This written policy shall be posted.

J. Non-discrimination Policy. Discrimination by child care providers on the basis of race, color, creed, sex, national origin, handicapping condition, ancestry, or whether the child is being breast-fed is prohibited. This written policy shall be posted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007).

§7307. Children's Records

A. A record shall be maintained on each child to include:

1. child's information form (mastercard) listing the child's name, birth date, sex, date of admission, name and phone number of child's physician and dentist, dietary restrictions, and allergies; signed and dated by the parent;

2. parental authorization to secure emergency medical treatment;

3. signed agreements between the provider and the parent for each child giving permission to release the child to a third party listed by the parent including any other child care facilities or transportation services. A child shall never be released to anyone unless authorized in writing by the parent;

4. signed agreements between the provider and the parent to transport the child. Daily trip authorization shall include name of child, type of service (i.e., to and from home, to and from school), parent's signature and date.

B. The provider shall maintain the confidentiality and security of all children's records. Employees of the center shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to any unauthorized person.

C. The provider shall obtain written, informed consent from the parent prior to releasing any information, recordings and/or photographs from which the child might be identified, except for authorized state and federal agencies.

D. The provider utilizing any type of recordings or taping of children including but not limited to digital recordings, videotaping, audio recordings, web cam, etc. shall obtain documentation signed and dated by the parent indicating their awareness of such recordings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007).

§7308. Retention of Records

A. Documentation of the previous 12 months' activity shall be available for review. Records shall be accessible during the hours the facility is open and operating.

B. For licensing purposes, children's information shall be kept on file a minimum of one year from date of discharge from the center.

C. For licensing purposes, personnel records shall be kept on file a minimum of one year from termination of employment from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007).

§7309. Required Staff

A. Each center shall have a qualified director who is an on-site full-time employee at the licensed location and is responsible for planning, managing, and controlling the center's daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met. When the director is not an on-site full-time employee at the licensed location, there shall be a qualified director designee who is an on-site full-time employee responsible for planning, managing, and controlling the center's daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met.

B. When the director or director designee is not on the premises due to a temporary absence, there shall be an individual appointed as staff-in-charge who is at least 21 years of age. This staff shall be given the authority to respond to emergencies, inspections/inspectors, parental concerns, and have access to all required information.

C. If the number of children in care exceeds 42, the director/director designee's duties shall consist only of performing administrative functions.

D. There shall be regularly employed staff who are capable of fulfilling job duties of the position to which they are assigned.

E. Adequate provisions for cooking and housekeeping duties shall be provided. These duties shall not interfere with required supervision of children or required child/staff ratios.

F. There shall be provisions for substitute staff who are qualified to fulfill duties of the position to which they are assigned.

G. Child care staff shall be age 18 years or older. The provider may, however, include in the staff-child ratio, a person 16 or 17 years old who works under the direct supervision of a qualified adult staff. No one under age 16 shall be used as child care staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007).

§7310. Director Qualifications

A. The director/director designee shall be at least 21 years of age.

B. The director/director designee shall have documentation of at least one of the following upon date of hire as director or director designee:

1. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education and one year of experience in a licensed child care center or comparable setting, subject to approval by the bureau;

2. an Associate of Arts degree in child development or a closely related area, and one year of experience in a licensed child care center, or comparable setting, subject to approval by the bureau;

3. a National Administrator Credential as awarded by the National Child Care Association, and one year experience in a licensed child care center, or comparable setting, subject to approval by the bureau;

4. a Child Development Associate Credential (CDA) and one year of experience in a licensed child care center, or comparable setting, subject to approval by the bureau;

5. diploma from a post secondary technical early childhood education training program approved by the Board of Regents or correspondence course approved by the Bureau and one year of experience in a licensed child care center, or comparable setting, subject to approval by the bureau;

6. three years of experience as a director or staff in a licensed child care center, or comparable setting, subject to approval by the bureau; plus six credit hours in child care, child development, or early childhood education or 90 "clock hours" of training approved by the bureau. Up to three credit hours or 45 clock hours may be in management/administration education.

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007).

§7311. Personnel Records

A. A record for each paid and non-paid staff person, including substitutes and foster grandparents shall be on file at the center. Personnel record shall include:

1. an application and/or a staff information form with the following:

- a. name;
- b. date of birth;
- c. address and telephone number;
- d. previous training/work experience;
- e. educational background; and
- f. employee's starting and termination date;

2. documentation of three current, positive reference checks or telephone notes signed and dated. These references shall be obtained from persons not related to the employee;

3. written job descriptions for every position at the center;

4. a written statement of good health signed by a physician or designee. Health statement dated within three months prior to offer of employment or within one month after date of employment is acceptable. A health statement is required every three years. Originals shall be presented upon request;

5. documentation of a satisfactory criminal record check, as required by R.S.15:587.1. Provider shall request this clearance prior to the employment of any center staff. A criminal record clearance is not transferable from one employer to another. No staff with a criminal conviction of a felony, a plea of guilty or nolo contender of a felony, or any offense of a violent or sexual nature, or any offense involving a juvenile victim shall be employed in a Class "A" child care center.

B. The following information shall be kept on file for therapeutic professionals and extracurricular personnel, e.g. computer instructor, dance instructor, librarian, tumble bus personnel, etc.:

1. documentation of a satisfactory criminal record check, as required by R.S.15:587.1. Provider shall request this clearance prior to individual being present in the center. No individual with a criminal conviction of a felony, a plea of guilty or nolo contender of a felony, or any offense of a violent or sexual nature, or any offense involving a juvenile victim shall be in a Class "A" child care center. Note: Individuals employed by the school system may have on file at the center, a letter from school system administrative staff documenting that a criminal record clearance has been completed through Louisiana State Police;

2. documentation of their presence at the facility to include:

- a. name;
- b. date of visit;
- c. arrival and departure times; and
- d. reason in center.

C. The following information shall be kept on file at the center for each student trainee:

1. an application and/or a staff information form with the following:

- a. name;
- b. date of birth; and
- c. address and telephone number;

2. job descriptions to include job duties to be performed and name of supervisor;

3. documentation of their presence at the facility to include:

- a. name;
- b. date of visit;
- c. arrival and departure times; and
- d. reason in center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007).

§7312. Staff Development and Training

A. Orientation Training

1. Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including substitutes and foster grandparents, shall receive orientation training to include the following topics:

- a. center policies and practices including health and safety procedures;
- b. emergency and evacuation plan;
- c. supervision of children;
- d. discipline policy;
- e. job description;
- f. individual needs of the children enrolled;
- g. detecting and reporting child abuse and neglect;
- h. current Child Care Class "A" Minimum

Licensing Standards; and

i. confidentiality of information regarding children and their families.

2. This training shall be followed by four days of supervised work with children. Documentation shall consist of a statement/checklist in the staff record signed and dated by the staff person and director, attesting to having received such orientation training, and the dates of the supervised work with children.

B. Quarterly Training. The director shall conduct, at a minimum, one staff training session/meeting every three months. Documentation shall consist of the date of the training session, training topics, and signatures (not initials) of all staff in attendance.

C. Annual Review. All staff, including substitutes and foster grandparents, shall have a signed and dated checklist/statement that the following topics are annually reviewed:

1. center policies and practices including health and safety procedures;
2. emergency and evacuation plan;
3. supervision of children;
4. discipline policy;
5. job description;
6. individual needs of the children enrolled;
7. detecting and reporting child abuse and neglect;
8. current Child Day Care Class "A" Minimum

Standards;

9. confidentiality of information regarding children and their families.

D. Continuing Education

1. The director shall provide opportunities for continuing education of staff through attendance at child care workshops or conferences, for paid and non-paid staff who are left alone with children, or who have supervisory or disciplinary authority over children. The child care staff, excluding foster grandparents, shall obtain 12 clock hours of approved training per center's anniversary year in job related subject areas. At least three of the 12 clock hours of training for directors/director designees shall be in administrative issues. Documentation shall consist of attendance records or certificates received by staff. This is in addition to the required training hours from the Department of Health and Hospitals, pediatric first aid and infant/child/adult CPR. Medication administration training by a Child Care Health Consultant may count toward fulfilling three of the mandated 12 hours of continuing education training. All training shall have prior approval by the Department of

Social Services. Original certificates shall be made available upon request.

2. Cooks or drivers who are neither left alone with children, nor have supervisory nor disciplinary authority over children shall complete at least three clock hours of training in job related topics per center's anniversary year.

E. CPR and First Aid

1. A minimum of at least 50 percent of all staff on the premises and accessible to the children at all times shall have documentation of current infant/child/adult certification in CPR. Original cards shall be made available upon request. This training shall be approved by the Department of Social Services prior to acceptance.

2. Centers with multiple buildings or floors, however, shall have at least one currently certified staff in approved infant/child/adult CPR in each building and on each floor of the center.

3. A minimum of at least 50 percent of all staff on the premises and accessible to children shall have documentation of current pediatric first aid certification. Original cards shall be made available upon request. This certification shall be approved by the Department of Social Services prior to acceptance.

4. Centers with multiple buildings or floors, however, shall have at least one currently certified staff in approved pediatric first aid in each building and on each floor of the center.

5. At least one staff in each vehicle (center provided or contract) shall have documentation of current infant/child/adult CPR certification and pediatric first aid certification.

6. At least 50 percent of the supervising staff on the field trip shall have documentation of current infant/child/adult CPR certification and pediatric first aid certification.

7. Non-vehicular excursions shall require at least one staff in attendance and accessible to children at all times with documented current certification in infant/child/adult CPR and pediatric first aid.

F. Emergency Procedures. The director shall ensure that written procedures for emergencies and evacuation as appropriate for the area in which the center is located such as fire, flood, tornado, hurricane, chemical spill, train derailment, etc. are available.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2763 (December 2007).

§7313. Water Activities

A. The provider shall obtain written authorization from the parent for the child to participate in any water activity. The statement shall describe all types of water activities provided and the authorization shall be updated at least annually and shall list the child's name, type of water activity, location of water activity, parent's signature and date.

B. On-site and off-site wading/swimming pool, or other water activities shall require at least two staff or other supervising adults to be trained in infant/child/adult CPR and pediatric first aid. One supervising adult shall be trained in an approved community water safety course. Providers who have wading pools with a depth of less than two feet shall not be required to have a staff with community water safety training. If children are taken to off-site water activities, documentation shall be on file at the center that the director has verified that the supervising adult meets the above requirements or the lifeguard on duty is currently certified. The provider shall ensure that appropriate water safety devices are used when children are participating in water activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2763 (December 2007).

§7315. Required Child/Staff Ratios

A. Child/staff ratios are established to ensure the safety of all children. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio. Child/staff ratio staff shall be met at all times as the number of children supervised by one staff shall not exceed the ratios as indicated below; however, there shall always be a minimum of two child care staff present during hours of operation when children are present.

Child/Staff	
Ages of Children	Ratio
Infants under 12 months	5:1
One year old	7:1
Two year old	11:1
Three year old	13:1
Four year old	15:1
Five year old	19:1
Six year old and up	23:1

1. An average of the child/staff ratio may be applied to mixed groups of children ages two, three, four, and five. Ratios for children under two or over five years old are excluded from averaging. When a mixed group includes children less than two years of age, the age of the youngest child determines the ratio for the group to which the youngest child is assigned. When a mixed group includes children both older and younger than six years old and older, the ages of the children less than six determine the ratio for the group.

2. During naptime, required staffing shall be present in the center to satisfy child/staff ratios.

B. Child/staff ratio plus one additional adult shall be met for all field trips and non-vehicular excursions.

C. A designated number of children shall relate daily to a designated staff on a regular and consistent basis.

D. When the nature of a special need or the number of children with special needs warrants added care, the provider shall add sufficient staff as deemed necessary by the bureau to compensate for these needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007).

§7317. Supervision

A. Children shall be under direct supervision at all times including naptime. Children shall never be left alone in any room or outdoors without a staff present. Children, excluding infants, may be grouped together at naptime with one staff supervising the children sleeping. All children sleeping shall be in the sight of the naptime worker.

B. While on duty with a group of children, child care staff shall devote their entire time in supervision of the children, in meeting the needs of the children, and in participation with them in their activities.

C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007).

§7319. Food Service and Nutrition

A. Well-balanced and nourishing meals and snacks shall be provided as specified under the Child Care Food Program of the United States Department of Agriculture (See Appendix A).

B. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contraindicated by special diets.

C. Meals and snacks shall be served at 2 1/2 to 3-hour intervals.

D. Current weekly menus for meals and snacks listing specific food items served shall be prominently posted. Menu substitutions shall be recorded on or near the posted menu.

E. Children's food shall be served on individual plates, napkins, paper towels or in cups, as appropriate.

F. Providers who do not serve breakfast shall have food available for children arriving in the morning without having eaten this meal.

G. Food shall not be sold to the children. Soft drink vending machines and other food dispensers for personnel use shall be located outside of the children's play areas.

H. Infants shall be held while being bottle-fed. An infant or any child who can hold a bottle shall not be placed in a crib, on a mat, cot, etc. with the bottle unless written permission is obtained from the parent.

I. A bottle shall not be propped at any time.

J. Daily written reports to include liquid intake, food intake, child's disposition, bowel movements, eating and sleeping patterns shall be given to parents of infants.

K. Microwave ovens shall not be used for warming infant bottles or infant food.

L. Developmentally appropriate equipment shall be used at mealtimes, such as feeding tables, highchairs, etc.

M. Drinking water shall be available indoors and outdoors to all children. Drinking water shall be offered at least once between meals and snacks to all children. Water shall be given to infants only with written instructions from parents.

N. Children are not allowed to bring food into the center except under the following circumstances.

1. Bottled formula/breast milk for infants shall have labeled bottles and labeled caps/covers with the child's name or initials and refrigerated upon arrival.

2. Baby food shall be in the original unopened container and labeled with the child's name or initials.

3. When a child requires a special diet, a written statement from a medical authority shall be on file.

4. Children with food allergies/intolerance shall have a written statement signed by the parent indicating the specific food allergy/intolerance.

5. When a child requires a modified diet for religious reasons, a written statement to that effect from the child's parent shall be on file.

6. Refreshments for special occasions such as birthday parties and holidays, with prior approval from the director may be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007).

§7321. Health Service to the Child

A. A provider that gives medication assumes additional responsibility and liability for the safety of the children. Effective January 1, 2005, the staff person(s) administering medication shall be trained in medication administration. The training shall be obtained every two years.

B. No medication of any type, prescription, non-prescription, special medical procedure shall be administered by center staff unless authorized in writing by the parent. Authorization shall include:

1. child's name;
2. name of the medication;
3. date(s) to be administered;
4. dosage;
5. time to be administered;
6. special instructions, if applicable;
7. side effects;
8. signature of parent and date of signature; and
9. circumstances for administering "as needed" medication.

C. Medication or medical procedures to be provided on an as needed basis or maintenance prescription shall be updated as changes occur, or at least every three months by the parent.

D. All medication sent to the center shall be in its original container, shall not have an expired date, and shall

be clearly labeled with the child's name to ensure that medication is for individual use only.

E. The provider shall follow any special directions as indicated on the medication bottle, i.e., before or after meals, with food or milk, refrigerate, etc.

F. If medication label reads "to consult physician," a written physician authorization with child's name, date, medication name and dosage must be on file in order to administer the medication in addition to the parental authorization.

G. Medication administration records shall be maintained verifying that the medication was given according to parent's authorization, which includes:

1. date;
2. time;
3. dosage administered;
4. signature (not initials) of the staff member who gave the medication; and
5. phone contact (date and time) with the parent prior to giving "as needed" medication.

H. When parents administer medication to their own children on the child care premises, the following information shall be documented:

1. date;
2. child's name;
3. time administered;
4. medication name;
5. dosage administered; and,
6. name of person administering medication.

I. The provider shall not apply topical ointments/sprays/creams (i.e. sunscreen, insect repellent, diaper rash ointment, etc.) without a written one-time authorization signed and dated from the parent, unless changes occur.

J. Upon arrival at the center, each child shall be observed for possible signs of illness, infections, bruises, injuries, physical condition, etc. When noted, results including an explanation from parent and/or child shall be documented.

K. Incidents of injuries or accidents shall be documented. Documentation shall include name of child, date and time of incident, location where incident took place, description of how incident occurred, part of body involved, and actions taken. Documentation of all injuries/accidents shall include time of parental notification and signature of person notifying the parent. The parent or designated person shall be notified immediately in the following situations:

1. blood not contained in an adhesive strip;
2. head injury;
3. human bite which breaks the skin;
4. any animal bite;
5. an impaled object;
6. broken or dislodged teeth; or
7. any injury requiring professional medical attention.

L. Documentation of illnesses or unusual behavior shall be maintained. Documentation shall include child's name, type/description of illness or unusual behavior, date and time of onset and actions taken, time of parental notification and signature of person notifying the parent. The parent or designated person shall be notified immediately in the following situations:

1. allergic reaction;
2. skin changes e.g. rash, spots, swelling, etc.;

3. unusual breathing;
4. dehydration;
5. any temperature reading over 101° oral, 102° rectal, or 100° axillary; or
6. any illness requiring professional medical attention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2765 (December 2007).

§7323. Physical Environment

A. Indoor Space Required

1. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a child care center shall not be dually licensed. A child care facility, except those located in a church or school, shall be physically separated from any other business or enterprise.

2. A minimum of at least 35 square feet per child of indoor space shall be available. The space shall not include toilet facilities, hallways, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

3. For indoor space, the number of children using a room shall be based on the 35 square feet per child requirement except for group activities such as film viewing, parties, dining and sleeping.

4. Provisions shall be available indoors for temporarily isolating a child having or suspected of having a communicable disease so he/she can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

5. An indoor area shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

B. Outdoor Space Required

1. Outdoor play space with a direct exit from the center into the outdoor play yard shall be available. If the exit does not open directly onto the play yard, the outdoor play yard shall be attached to the facility in such a manner to ensure that the children are continuously protected by a fence while going to and/or from the outdoor play yard.

2. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-third of the licensed capacity.

3. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the

children from traffic hazards; to prevent the children from leaving the premises without proper supervision; and to prevent contact with animals or unauthorized persons.

4. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

5. Areas where there are open cisterns, wells, ditches, fish ponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2766 (December 2007).

§7325. Furnishings and Equipment

A. A working telephone capable of incoming and outgoing calls shall be available at all times and readily available at the center. Coin operated telephones or cellular telephones are not acceptable for this purpose.

B. When a center has multiple buildings and a telephone is not located in each building where the children are housed, a written plan shall be posted in each building for securing emergency help.

C. Appropriate emergency numbers such as fire department, police department, and medical facility shall be prominently posted on or near the telephone.

D. The telephone number for poison control shall be prominently posted on or near the telephone.

E. The center's physical address shall be posted with the emergency numbers.

F. All equipment and materials shall be appropriate to the needs and ages of the children enrolled.

G. All play equipment and equipment necessary for the operation of the center shall be maintained in good repair.

H. Play equipment of sufficient quantity and variety for indoor and outdoor use encouraging physical play and quiet play/activities which is appropriate to the needs and ages of the children shall be provided.

I. Low, open shelves, bins, or other open containers shall be within easy reach of the children for the storage of play materials in each play area.

J. Individual, labeled space shall be available for each child's personal belongings.

K. Chairs and table space of a suitable size shall be available for each child two years of age or older.

L. Individual and appropriate sleeping arrangements shall be provided for each child. Each child shall be provided with a cot, mat, or crib (baby bed) of appropriate size, height, and material, sufficient to ensure his/her health and safety. Each infant shall have a crib separated from all other cribs (non-stackable). Playpens shall not be substituted for cribs.

M. Mats may be used only if the area used for napping is carpeted or if the center is centrally heated and cooled. If mats are used, they shall be of adequate size and material to provide for the health and safety of the child.

N. Each child's sleeping accommodations shall be assigned to him/her on a permanent basis and labeled.

O. Sheets for covering the cot or mat shall be provided by either the provider or the parent, unless the cots or mats are covered with vinyl or another washable surface.

P. Sheets and coverings shall be changed immediately when soiled or wet.

Q. A labeled sheet or blanket shall be provided by either the provider or the parent for covering the child.

R. Cribs, cots, or mats shall be spaced at least 18 inches apart.

S. Cribs shall have spaces between crib slats of no more than two and three-eighths inches.

T. Infant bed railings shall be in the up and locked position at all times when the child is in the bed.

U. Trampolines are prohibited.

V. Infant walkers are prohibited.

W. Toy chests with attached lids are prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2766 (December 2007).

§7327. Safety Requirements

A. Prescription and over-the-counter medications, poisons, cleaning supplies, harmful chemicals, equipment, tools and any substance with a warning label stating it is harmful or that it should be kept out of the reach of children, shall be locked away from and inaccessible to children. Whether a cabinet or an entire room, the storage area shall be locked.

B. Refrigerated medication shall be stored in a secure container to prevent access by children and avoid contamination of food.

C. Construction, remodeling, or alterations of structures shall be done in such a manner as to prevent hazards or unsafe conditions (fumes, dust, safety hazards).

D. Secure railings shall be provided for flights of more than three steps and for porches more than three feet from the ground.

E. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

F. Accordion gates are prohibited unless there is documentation on file that the gate meets requirements as approved by the Office of Public Health, Sanitarian Services.

G. Unused electrical outlets shall be protected by a safety plug cover.

H. Strings and cords (such as those found on window coverings) shall not be within the reach of children.

I. First aid supplies shall be kept on-site and easily accessible to employees, but not within the reach of children.

J. All areas of the center used by the children, including sleep areas, shall be properly heated, cooled, and ventilated.

K. Areas used by the children shall be lighted in such a way as to allow visual supervision of the children at all times.

L. The center and yard shall be clean and free from hazards.

M. The provider shall prohibit the use of alcohol, tobacco, and the use or possession of illegal substances or

unauthorized potentially toxic substances, fireworks, firearms, pellet or BB guns (loaded or unloaded) on the child care premises. This notice shall be posted.

N. The provider shall post "The Safety Box" newsletter issued by the Office of the Attorney General as required by Chapter 55 of Title 46 of the R.S. 46:2701-2711.

O.1. Fire drills shall be conducted at least once per month. These shall be conducted at various times of the day and night (if nighttime care is provided) and shall be documented. Documentation shall include:

a. date and time of drill;

b. number of children present;

c. amount of time to evacuate the center;

d. problems noted during drill and corrections noted; and

e. signatures (not initials) of staff present.

2. It is recommended that one fire drill every six months be held at naptime.

P. The entire center shall be checked after the last child departs to ensure that no child is left unattended at the center. Documentation shall include date, time, and signature of staff conducting the visual check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007).

§7329. Non-Vehicular Excursions

A. Written parental authorization shall be obtained for all non-vehicular excursions. Authorization shall include the name of child, type and location of activity, date and signature of parent, and shall be updated at least annually.

B. The provider shall maintain a record of all non-vehicular excursions activities to include date, time, list of children, staff, and other adults, and type of activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007).

§7331. General Transportation (Contract, Center-Provided, Parent Provided)

A. Providers who transport or arrange transportation of children assume additional responsibility and liability for the safety of the children. Whether transportation is provided on a daily basis or for field trips only, these general regulations shall apply. Transportation arrangements shall conform to state laws, including seat belts and child restraints.

B. Only one child shall be restrained in a single safety belt.

NOTE: For additional information regarding state laws, contact Office of Public Safety.

C. The driver or attendant shall not leave the children unattended in the vehicle at any time.

D. Each child shall safely board or leave the vehicle from the curb side of the street and/or shall be escorted across the street.

E. The vehicle shall be maintained in good repair.

F. The use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

G. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

H. The provider shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles (staff, contracted persons, parents) used to transport children.

I. The provider shall maintain in force at all times current commercial liability insurance for the operation of center vehicles to ensure medical coverage for children in the event of accident or injury. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment. The provider is responsible for payment of medical expenses of a child injured while in the provider's care. Documentation shall consist of the insurance policy or current binder that includes the name of the child care facility, the name of the insurance company, policy number, period of coverage and explanation of the coverage. If transportation is provided by parents for field trips or transportation is provided by contract, whether daily or field trip, a copy of the current liability insurance shall be maintained on file.

J. The vehicle shall have evidence of a current safety inspection. In lieu of a visual inspection of a contracted vehicle, a signed statement by the agency representative verifying the expiration date of the current inspection is acceptable.

K. There shall be first aid supplies in each provider or contracted vehicle. First aid supplies (at least one per trip) shall be available for each field trip when parents provide transportation. In lieu of a visual inspection of a contracted vehicle, a signed statement by the agency representative verifying this information is acceptable.

L. There shall be information in each vehicle identifying the name of the director and the name, telephone number, and address of the center for emergency situations. In lieu of a visual inspection of a contracted vehicle, a signed statement by the agency representative verifying this information is acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007).

§7333. Field Trips (Contract, Center-Provided, Parent Provided)

A. All requirements for general transportation, §7331, also apply to field trips.

1. In addition, the following standards shall apply when transportation is provided/arranged for field trips.

a. The provider shall maintain a signed parental authorization for each field trip. Field trip authorization shall include the type of service (contract vehicle, center owned vehicle, parent vehicle) used to transport children, event, location, child's name, date and time of event, parent's signature and date.

b. At least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle.

c. The provider shall maintain a record of all field trips taken, to include date and destination, list of passengers (children, parents, staff) (going & returning) and method of transportation.

d. If transportation is provided by parents, a planned route shall be provided to each driver and a copy maintained in the center.

e. Children shall be supervised during boarding and exiting vehicles by an adult who remains on the outside of the vehicle.

f. The driver or staff person shall check the vehicle and account for each child upon arrival and departure at each destination to ensure no child is left on the vehicle or at any destination. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked for each loading and unloading of children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007).

§7335. Daily Transportation (Contract or Center-Provided)

A. All requirements in general transportation, §7331, also apply for daily transportation.

1. In addition, the following standards all apply when daily transportation is provided/arranged.

a. A staff person shall be present when the child is delivered to the center.

b. The driver plus one staff are required at all times in each vehicle when transporting any child under five years of age.

c. When transporting children five years of age and older, the driver plus one staff person shall be in each contracted or center provided vehicle unless the vehicle has a communication device which allows staff to contact emergency personnel, and the child/staff ratio is met in the vehicle.

d. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom the child may be released. Documentation shall be

maintained on file at the center whether provided by center or contract.

e. The driver or attendant shall maintain an attendance record for each trip. The record shall include the driver's name, the date, name of all passengers (children and adults) in the vehicle, the name of the person to whom the child was released and the time of release. Documentation shall be maintained on file at the center whether provided by center or contract.

f. The staff shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle. Documentation shall include the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the center whether provided by center or contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007).

§7337. Contract Requirements

A. The provider shall maintain a contract which is signed by the provider and a representative of the transportation agency outlining circumstances under which transportation will be provided. This written contract shall be dated, time limited and shall include verbiage in §7331.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007).

§7339. Care for Children during Nighttime Hours

A. All minimum standards for child care centers apply to providers who care for children after 9 p.m. and in which no individual child remains for more than 24 hours in one continuous stay.

1. In addition, the following standards shall apply.

a. There shall be a designated "staff-in-charge" employee who is at least 21 years of age.

b. Adequate staff shall be present in the center to meet the child/staff ratios as indicated in §7315; however, there shall always be a minimum of at least two staff present.

c. Meals shall be served to children who are in the center at the ordinary meal times.

d. Each child shall have a separate, age appropriate bed or cot with mat or mattress covered by a sheet for each child, as well as a covering for each child (bunk beds are not allowed).

e. There shall be a posted schedule of activities.

f. Evening quiet time activity such as story time, games, and reading shall be provided to each child arriving before bedtime.

g. Physical restraints shall not be used to confine children to bed.

h. The center's entrance and drop off zones shall be well-lighted during hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:0000 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007).

§7350. Disclosure of Information as Specified Under R.S. 46:1426

A. Purpose; Authority. It is the intent of the Legislature to protect the health, safety, and well-being of children who are in out-of-home day care centers. Toward that end, R.S. 46:1426 allows parents or guardians of children enrolled in, or who have made application to be enrolled in, a day care center to obtain certain information pertaining to that particular day care center in addition to information that may be obtained under the Public Records Act subject to the limitations provided by R.S. 46:56(F)(4)(c).

B. Procedure for Requesting Information

1. Requests for information may be made by a parent or guardian of a child either by telephone or in writing.

2. Upon receipt of a request that does not give assurance that the person making the request is a parent or guardian of a child that is currently attending or that has completed a current application to attend the day care center in question, the Bureau of Licensing shall furnish the parent or guardian a certification form that must be completed and signed that certifies that their child is currently attending or that a current application has been made for the child to attend the particular day care center.

3. Upon receiving the needed information, or the certification form, the Bureau of Licensing shall initiate a review of the records of that particular day care center.

4. The Bureau of Licensing shall provide or make available all information, if any, that is requested, subject to limitations as provided by law.

5. Failure of a parent or guardian to sign a certification form or provide compelling information that indicates their child is either currently attending or has made application to attend said day care center will result in the request being handled as a request under the Public Records Act.

C. Information that May be Released

1. Information that may be released under R.S. 46:1426 is as follows:

a. each valid finding of child abuse, neglect, or exploitation occurring at the center, subject to the limitations provided by R.S. 46:56(F)(4)(c);

b. whether or not the day care center employs any person who has been convicted of or pled guilty or nolo contendere to any of the crimes provided in R.S. 15:587.1;

c. any violations of standards, rules, or regulations applicable to such day care center; and

d. any waivers of minimum standards authorized for such day care center.

2. No information may be released that contains the name, or any other identifying information, of any child involved in any situation concerning the day care center.

3. The identity of any possible perpetrator or of the party reporting any suspected abuse, neglect or exploitation shall not be disclosed except as required by law.

4. If there is no information in the files other than information covered under the Public Records Act, the parent or guardian shall be so notified and informed of the procedure for obtaining that information.

D. Costs. As is required for obtaining copies of records under the Public Records Act, parents or guardians wanting copies of records under R.S. 46:1426 shall be informed of the costs involved and pay for copies of said records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1426

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:1130 (December 1999), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007).

§7355. Purpose

A. Licensing Authority

1. The Louisiana Committee on Private Child Care shall meet to develop minimum standards for licensure of Class B facilities and consult with the Department on matters pertaining to decisions to revoke or refuse to grant Class B license. The licensing authority of this committee is established by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 et seq., relative to the licensing and regulation of child care facilities and child placing agencies.

2. The law provides a penalty for operating a center without a valid license (see R.S. 1421). The penalty for the operation of a center without a valid license is a fine of not less than \$75 not more than \$250 for each day of operation without a license.

3. If any child care facility operates without a valid license issued by the Department, the Department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons, or any other group operating the child care facility from continuing the violation.

4. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals all child care facilities and child-placing agencies that are subject to the provisions of the law. These inspections are not to exceed one year, and will be made as deemed necessary by the department without previous notice.

B. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived as long as the health and well being of the staff and/or the children are not placed in danger. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000),

repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007).

§7357. Definitions

A. The following are definitions of terms used in these minimum standards:

Bureau—Bureau of Licensing of the Louisiana Department of Social Services.

Child Care Center—is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver. A recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and does not operate more than twenty-four hours in a continuous seven-day week is not considered a day care center.

Child Care Staff—an individual directly involved in the care and supervision of the children in the center.

Class A License—issued to centers that meet Class A minimum standards.

Class B License—issued to centers that meet Class B minimum standards.

Committee on Private Child Care—writes and oversees the implementation of the Class B minimum standards.

Corporal Punishment—shall be defined as and limited to a spanking.

Department—the Department of Social Services.

Director—an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the child care center.

Discipline Policy—a policy that is to be made available to each parent/guardian and outlines the discipline (corporal or noncorporal punishment) plan to be administered by the center.

Hereditary Relationship—is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Incident Report—a record book that staff can record injuries in that a child may have arrived at school with. Each entry should be recorded, signed by the person making the report, and signed by a witness to the injury and report.

Master Card, Child's—an information form that gives identifying and pertinent information on each child.

Medication Permission Slip—an authorization form which gives the child care center parents' permission (and dosage instructions) regarding administering medication to their child.

Montessori School—a school that has a BESE Board Certification to be a Montessori School classification.

Owner—the individual or organization that owns the center, but who may employ a person to be a full-time director responsible for the operation of the center or who may retain the responsibility as director.

Personnel Health Record—gives medical information of employees indicating a current check of communicable diseases.

Shall or Must—mandatory.

Spanking—a striking by the director's open hand on the clothed buttocks of a child older than 24 months of age as punishment.

Substitute Employee—an individual hired to take the place of any staff member.

Temporary Employee—an individual who, on an occasional basis, works under the supervision of a regular staff member.

Voluntary Worker—an individual who volunteers services or supplements the regular staff, on an occasional basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007).

§7359. Procedures

A. Initial Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain licenses from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed:

a. Prior to purchasing, leasing, etc. carefully check all local zoning and building ordinances in the area where you are planning to locate. Standards from the Office of Public Health, Sanitation Services; Office of the State Fire Marshal, Code enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing a building, obtain an application form issued by:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821-3078
Phone: (225) 922-0015
Fax: (225) 922-0014

c. The completed application shall indicate Class "B" license. Anyone applying for State or Federal funding shall apply for a Class "A" license. Licensure fees are required to be paid by all centers. A Class "B" may not be changed to a Class "A" license if revocation procedures are pending. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from annual license fees.)

d. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a center:

i. Office of Public Health, Sanitation Services;

ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;

iii. Office of City Fire Department (if applicable);

iv. Zoning Department (if applicable);

v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the Bureau will request the Office of State Marshal, Office of City Fire Department (if applicable), Office of Public Health and any known required local agencies to make an inspection of the location, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist will visit the center to conduct a licensing survey.

f. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

i. fire approval (state and city, if applicable);

ii. health approval;

iii. zoning (if applicable);

iv. full licensure fee paid (if applicable);

v. three positive references on the Director;

vi. licensure survey verifying substantial compliance.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed above shall be resubmitted, except references if the Director remains the same.

4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed above shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a center requires approval from agencies listed above and the Bureau of Licensing.

6. The Bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to center's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If a Director or member of his immediate family has had a previous license revoked, refused, or denied, upon re-application, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal, or denial have been corrected and the Director and/or center is in substantial compliance with all minimum standards.

9. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all changes of ownership or location.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial applications, including all church owned and operated centers. This fee will be applied toward the total licensure fee, which is due prior to licensure of center. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all Changes of Ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from license fees.) License fee schedules (based on capacity) are listed below:

License Fee Schedules	
Capacity	Fee
15 or fewer	\$25
16-50	\$100
51-100	\$175
101 or more	\$250

3. Other Licensure Fees:

a. Twenty-five dollar replacement fee for any center replacing a license when changes to the license are requested by the Director, i.e., changes in capacity, name change, age range change. (There is no processing charge when the request coincides with regular renewal of license.)

b. Five dollar processing fee for issuing a duplicate license with no changes.

C. Exemptions. The only exemption to licensure is private or public day schools serving children in grades one and above or pre-kindergartens and kindergartens. Also exempt are state certified Montessori schools and camps, as well as all care given without charge.

D. Licensing Changes. Bureau of Licensing shall be notified before changes are made which might have an effect upon the license (for example, a change in age range of children to be served or a change in space of facility).

E. Relicensing. The relicensing survey is similar to the original licensing survey.

1. Renewal applications will be mailed to centers approximately 60 days prior to the expiration for execution. The application shall indicate any changes the center needs to make (example: hours of operation, ages of children, etc.).

2. Relicensing surveys will be made by the Department of Social Services, Bureau of Licensing, Office of the State Fire Marshal, the Office of Public Health and others as the City Fire Marshal, Zoning (if applicable). Approvals of each must be received by the Department of Social Services, Bureau of Licensing before a new license will be issued. The director will review with the licensing specialist the findings and will be furnished a copy for any necessary action. It is the responsibility of the center owner/director to obtain the approvals before the current license's expiration date.

3. The Department of Social Services and the Office of the State Fire Marshal must approve any proposed structural changes, ratio adjustments, and variance of space used before changes are made which may affect the center's license.

F. Denial, Revocation or Nonrenewal of License. An application for a license may be denied, or a license may be revoked, or renewal thereof denied, for any of the following reasons:

1. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, rules, regulations or orders of the Department of Social Services promulgated thereunder;

2. cruelty or indifference to the welfare of the children;

3. conviction of a felony or any offense of a violent or sexual nature or an offense involving a juvenile victim, as shown by a certified copy of the record of the Court of conviction, of the applicant;

a. or, if the applicant is a firm or corporation, any of its board members or officers;

b. or of the person designated to manage or supervise the center;

4. history of noncompliance;

5. disapproval from any agency whose approval is required for licensure;

6. nonpayment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

7. any validated instance of cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the center;

8. the center is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

9. any proven act of fraud such as falsifying or altering document(s) required for licensure;

10. center refuses to allow the Bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.

G. Appeal Procedure. If the license is denied, refused or revoked, the Bureau shall notify the day care center of the reasons for denial, refusal or revocation.

1. The day care operator may appeal this decision by submitting a written request including reasons to the Appeals Bureau, P.O. Box 2944, Baton Rouge, LA 70821-9118. This written request must be postmarked within 30 days of the operator's receipt of the above notification.

2. The Appeal's Bureau shall hold a hearing after receipt of such a request.

3. Within 90 days after the date the appeal is filed, the Appeal's Bureau shall advise the appellant by registered letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the center shall immediately terminate operation.

H. Advertising. Any Class "B" facility which advertises the fact that it is licensed under Louisiana law shall clearly indicate in its advertising that it holds a Class "B" license. In printed materials, Class "B" shall be printed in the same size type as the words "licensed" or "license". In broadcast advertising, a facility shall not advertise the fact that it is licensed without indicating in the same advertisement that the kind of license held is a Class "B" license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007).

§7361. General Requirements

A. The Director shall be responsible for ensuring that the minimum licensing requirements are met.

B. A current child day care license shall be on display, except for church affiliated centers (R.S. 46:1412.C) that choose to keep the license on file and available upon request.

C. A center shall maintain in force at all times current commercial liability insurance for the operation of a center and vehicle (if transportation is provided) to insure medical coverage for children in the event of accident or injury. Documentation shall consist of the insurance policy or current binder that includes the name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Current written report from the Office of State Fire Marshal.

E. Current written report from the Office of Public Health.

F. Current written report from City Fire (if applicable).

G. Certificate of Occupancy (zoning) (if applicable).

H. Incident log for staff to record any injuries that a child may have upon arrival to the child care center.

I. Each person living in a private residence, part of which is used as a child care facility, shall meet the same medical requirements as employed personnel.

J. Each child living in a private residence, part of which is a child care facility shall meet the same medical requirements as the children enrolled in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007).

§7363. Transportation

A. A center that provides transportation of children assumes additional responsibility and liability for the safety of the children.

B. Transportation Plan

1. If transportation is provided, even on an irregular basis, the center shall have a written statement identifying the type of transportation provided, i.e., to and from home, to and from school, to and from swimming or dancing lessons, field trips, etc.

2. If transportation to/from home and/or school is provided the center shall have a written plan that states the following:

- a. geographical areas served;
- b. time schedule of the services; and
- c. fee, if any, for transportation services.

C. Transportation Furnished by the Center

1. When transportation is provided, the director shall insure that:

a. transportation arrangements conform to state laws;

NOTE: For additional information regarding state laws, contact the Office of Public Safety.

b. at least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle;

c. at least one staff in each vehicle shall be currently certified in CPR;

d. children are under the direct supervision of staff at all times. The driver or attendant shall not leave the children unattended in the vehicle at any time while transporting children;

e. each child shall board the vehicle from the curbside of the street and/or shall be safely escorted across the street;

f. each child is delivered to a responsible person authorized in writing by the parent;

g. a designated staff person shall be present when the child is delivered to the center;

h. good order shall be maintained on the vehicle;

i. the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;

j. the vehicle shall be maintained in good repair; and

k. the use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

2. Children shall not be transported in the back of a pickup truck.

3. All drivers and vehicles shall be covered by liability insurance as required by law.

4. The driver shall hold a valid appropriate Louisiana driver's license.

5. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom child may be released.

6. The center shall maintain a daily transportation attendance record.

7. The vehicle shall have evidence of a current safety inspection.

8. There shall be first aid supplies in the vehicle, i.e. Band-Aids, peroxide, etc.

9. There shall be information in each vehicle identifying the center's name, telephone number and address for emergency situations.

10. A fire extinguisher shall be stored in the vehicle.

D. Field Trips. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

E. Transportation by Contract. When the center contracts with an outside source for transportation, there shall be an agreement on file signed and dated by the Director and a representative of the transportation agency stating that all rules for transportation shall be followed as stated in the law

and the regulations. The center shall select a transportation agency with a good reputation and reliable drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007).

§7365. Center Staff

A. All center staff includes the director, teachers, child care staff, and any other employees of the center such as the cook, housekeeper, and chauffeur.

B. All center staff must be at least 18 years of age or older. However, the center may employ a person 16 or 17 years old that works under the direct supervision of a qualified adult staff person.

C. Personnel Records

1. Employment Application. There shall be an employment application for each regularly employed and substitute member of the staff. This application shall include the actual date of hire, all pertinent personal information, past work experience, educational background.

2. References. Center staff shall be known in the community to be of good reputation as verified by at least three non-related reference checks. There shall be on file in the center three letters of reference or documentation that at least three reference were contacted by the director/provider prior to employment.

3. I-9 Form. A completed I-9 form (U.S. Immigration and Naturalization Service Employment Eligibility Form) required after November 1986.

4. Criminal Records Check. A criminal records check shall be requested by the director/provider prior to the employment of any staff person. Documentation of a criminal records check and fingerprinting application as required by R.S.15: 587.1 after September 1, 1987.

a. Criminal Record clearance is not transferable from one employer to another.

b. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

5. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

6. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

7. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. Personnel Training

1. The provider/director shall plan and implement procedures relating to new staff development. This shall include the following:

a. provisions for a one-day orientation to center policies and practices;

b. health and safety procedures; and

c. four days of supervised working with children;

2. documentation of orientation shall consist of a statement in the employee's record signed by the employee and director attesting to having received such orientation.

3. Providers/Directors shall conduct, at a minimum, one staff training session or meeting each quarter. The training session/meeting should include such matters as program planning, sharing new materials, and discussing center policy. Documentation of the training sessions/meetings including date and staff signatures shall be kept on file in the center.

4. Books, magazines, periodicals, pamphlets and journals relating to child care shall be available to staff. Documentation shall consist of observing that these materials are accessible in the facility to the staff.

5. CPR training for infant and child is required of one-half of the current staff on the premises. Documentation will be a copy of the certification card on file at the center.

a. This training may satisfy the requirement for a staff quarterly training session (§7365.D.2).

b. Certification will qualify for four "clock hour" training credit toward a new Director's requirements. (§7369.A.2.a-h)

6. If a center cares for children eight years and up, at least one staff shall be required to have Adult CPR when those children are present. Documentation will be a copy of the certification card on file at the center.

7. All staff shall have three continuing education hours annually through attendance at child care workshops or conferences i.e. LAECA, LAPACC, NAEYC, etc., or local physician, dentist, public library, PBS, universities and extension services, etc. This is in addition to the three hours required for Health and Safety. These hours will be recognized by the Bureau without prior approval. The hours shall be documented and kept on file. This documentation shall include number of hours, topic, trainer, staff name, date and signature of the Director and/or the trainer.

8. All personnel are to be trained in emergency and evacuation procedures appropriate for the area in which the center is located. Documentation of training shall be kept on file at the child care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007).

§7367. Childrens' Records

A. The center shall have on file and available at all times the following records for each child in care:

1. master card. General information regarding child to include medical history;
2. immunization record;
3. written parental/guardian authorization for release of child to a third party; and
4. written parental/guardian authorization for the center to administer and/or secure emergency medical treatment.

B. For licensing purposes, children's records shall be kept on file a minimum of one year from the date of discharge from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1640 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007).

§7369. Personnel

A. Director Qualifications

1. must be at least twenty-one (21) years of age;
2. must have documentation of at least one of the following:
 - a. bachelor's degree from a regionally accredited college or university with at least six credit hours of child development or early childhood education and one year of supervised child care experience in a licensed center or comparable setting;
 - b. a Child Development Associate Credential which includes practicum and one year experience in a licensed center;
 - c. an Associate of Arts degree in child development or a closely related area and one (1) year of supervised child care experience in a licensed center or a comparable setting;
 - d. one year of experience as a director or staff in a licensed child care center plus 12 credit hours in child care child development or early childhood education. Fifteen "clock hours" may be substituted for each three credit hours;
 - e. diploma from a vocational child care training program approved by the Board of Regents or equivalent plus one year of supervised child care experience in a licensed child care center or comparable setting;
 - f. a National Administrator Credential as awarded by the National Child Care Association, and one year experience in a licensed child care center, or comparable setting;
 - g. certificate of completion from the International Correspondence School and one year experience in a licensed child care center or comparable setting;
 - h. certificate of completion from the Professional Career Development Institute and one year of experience in a licensed child care center or comparable setting.

3. A comparable setting must be approved by the Bureau.

4. Licenses issued after September 30, 2000 must meet one of the requirements (7369.A.2.a-h). All directors employed prior to June 20, 1990 will be exempt from

meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

B. Required Center Staff

1. If the number of children exceeds 42 the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center.

2. If the center does not exceed 42 children as their enrollment, there must be an individual designated as responsible for the operation of the center.

3. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

4. There shall be provisions for substitute help if the director or any regular employee is absent from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1640 (September 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007).

§7371. Required Child/Staff Ratios

A. Required Ratios for Ten or Less Children. Below are the required child/staff ratios for centers serving ten or fewer children (including the operator's and/ or staff's own children):

Children Staff	
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required Ratios for Eleven or More Children:

Children Staff	
6 (Non-walkers and toddlers under 12 months)	1
8 (Toddlers, 12 months to 23 months)	1
12 (Two-Year-Olds, 24 months to 36 months)	1
14 (Three-Year-Olds, 36 months to 48 months)	1
16 (Four-Year-Olds, 48 months to five years old)	1
20 (five to six year olds)	1
25 School Age (six-year-olds and up)	1

1. Mixed Ages. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

C. Other Required Staff

1. When the number of children in the center exceeds ten, there must be an individual immediately available in case of an emergency.

2. If day and night care is offered, there must be separate staff.

3. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007).

§7373. Physical Plant and Equipment

A. Indoor/Outdoor Space Required. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a child care center shall not be dually licensed.

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

b. There shall be provisions for temporarily isolating a child having or suspected of having a communicable disease so he/she can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

c. An area, i.e. bathroom, partitioned area, etc., shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

2. Outdoor Play Space

a. There shall be outdoor play space with direct exit from the center into the outdoor play yard.

b. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-half of the licensed capacity.

c. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

d. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

e. Areas where there are open cisterns, wells, ditches, fishponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

3. A soft surface shall be provided under climbing apparatus with a potential fall of four feet or more to the ground. Soft surface examples are pea gravel, sand, wood chips, sawdust, or mats.

B. Furnishings and Equipment

1. There shall be a working telephone at the center.

2. Appropriate emergency numbers shall be posted, such as fire department, police department, and medical facility.

3. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children as follows:

a. equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and

b. equipment which encourages quiet play or activity (for example, sand clay, crayons, paints, story and picture books, dolls, puzzles, and music).

4. The equipment shall be maintained in good repair.

5. The center shall make provisions for storage space within easy reach of the children for the storage of play materials in appropriate play areas. Toy chests with attached lids are prohibited.

6. There shall be individual spaces for each child's clothing and personal belongings.

7. Chairs of a suitable size and table space shall be available for each child two years or older.

8. Individual and appropriate sleeping arrangements must be provided for each child.

a. State and local health requirements regarding sleeping arrangements must be met.

b. Each child shall provide or be provided with a mat, cot or bed age appropriate. Playpens shall not be substituted for a baby bed/crib.

c. While in use, each mat, cot or bed shall be placed 18 inches apart and shall be arranged in a head to toe configuration. Each one shall be labeled for individual use.

9. Smoking shall not be allowed on the child care premises.

C. Fire Safety. Fire drills shall be conducted at least once per month. These shall be conducted at various times of the day and shall be documented as follows:

1. date and time of day;
2. number of children;
3. lapse time of drill;
4. problems and solutions if any; and
5. staff signatures.

D. Safety Regulations

1. Drugs, poisons, harmful chemicals, all products labeled "Keep out of the reach of children," equipment and tools shall be locked away from the children. Whether a cabinet or an entire room, the storage area must be locked.

2. Refrigerated medications shall be in a secure container to prevent access by children and avoid contamination of food.

3. Secure railings shall be provided for:

- a. flights of more than three steps;
- b. porches more than three feet from the ground.

4. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

5. Accordion gates are prohibited.

6. First Aid Supplies shall be available at the day care center. (Suggestions for first aid supplies may be obtained from the Red Cross.)

7. The center and yard must be clean and free from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2776 (December 2007).

§7375. Admission of Children

A. Admission of children shall include an interview with the parent or guardian to:

1. secure necessary information about the child; and
2. provide a Parents' Handbook about the center's programs, policies, fees and a basic daily center schedule.

B. Parents or guardians must be provided with a written description of the center's discipline policy.

C. Discrimination by child daycare centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A policy shall include this written statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2776 (December 2007).

§7377. Care of Children

A. Nutrition

1. If the Center prepares any meals, well-balanced and nourishing meals shall be made available to children in care.

a. Children in care for more than four hours shall be provided meals using the four basic food groups (bread, fruits and vegetables, dairy products, protein products) that provide approximately one-third to one-half of the current Recommended Dietary Allowances of the National Research Council. (See Appendix A)

b. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contradicted by special diets.

c. To ensure well-balanced and nourishing meals, the specified patterns for meals (See Appendix A) shall be referenced.

2. Milk shall be served to the children at least once a day.

3. Children in full-time care shall have two snacks and one meal daily.

4. Weekly menus for meals and snacks shall be posted if the center prepares the food. Substitutions shall be posted on or near the menu.

5. It is permissible for children to bring their own food to the center.

6. Bottled formula for infants must be labeled.

7. If the parent provides the daily meal, parents should be encouraged to prepare meals which are well balanced and nutritious but with the understanding that what the parent provides is acceptable.

8. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding.

b. A bottle shall not be propped at any time.

c. Parents shall supply the center with a schedule of feeding times for their infant.

9. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

a. Drinking fountains are permissible.

b. Children shall be offered water at intervals at a minimum of two and one-half hours and after each outdoor activity.

10. Children's food shall be served on individual plates, napkins, paper towels or in cups as appropriate.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless authorized in writing by the parent. Authorization shall include the name of the child

and medication, date(s) to be given, time to be given, dosage, and signature of parent.

a. Documentation shall be maintained verifying that medication was given according to parent's authorization, including the date, time and signature of the staff member who gave the medication.

b. All medication shall remain in the original container.

2. If symptoms of contagious or infectious diseases develop while the child is in care, he/she shall be in supervised isolation away from the other children until a parent or designated person has been contacted and the child has been picked up from the center.

3. Any child who has had a 100°F oral temperature or 101°F rectal temperature reading the last 12 hours is suspect.

4. Children with the following illnesses or symptoms shall be excluded from the center based on potential contagiousness (communicability) of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis)	Well with proof of noncarriage*
Hib disease (hemophilus)	Well with proof of noncarriage*
Diarrhea (two or more loose stools or over and above what is normal for that child).	Diarrhea resolved or is controlled (Contained in Diaper or toilet)
Fever of unknown origin (100°F oral or 101°F rectal or higher) some behavioral signs of illness.	Fever resolved or cleared by child's physician or Health department
Chicken pox	Skin lesions (blisters) Scabbed over completely
Hepatitis A	One week after illness started and fever gone
Aids (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons**, including the child's physician, chosen by the child's parent or guardian and the Director
Undiagnosed generalized rash	Well or cleared by child's Physician
Any child with a sudden onset of vomiting, irritability, or excessive sleepiness.	Evaluated and cleared by child's physician

* Proof of noncarriage. Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

** These persons include the child's physician and other qualified individuals such as the Director, a representative of the state's Office of Public health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether HIV-infected child poses a potential threat to others.

5. With most other illnesses, children have either already exposed others before becoming obviously ill (i.e. colds), or are not contagious one day after beginning treatment (i.e., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies.)

6. The parent or designated person shall be notified and incident documented if:

- a. child develops symptoms of illness; or
- b. suffers a serious accident in child care;

7. All head injuries shall be reported to parents immediately.

8. An accident report including incidents shall be maintained detailing accident/incident of child and the action taken by the staff/director.

C. Daily Program

1. There shall be a schedule of the day's plan of activities posted in each classroom or center providing for flexibility and changes, as deemed necessary.

2. The program of activities shall be adhered to with reasonable closeness but shall accommodate and have due regard for individual differences among the children.

3. The program shall provide time and materials for both vigorous and quiet activity for the children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snack and putting away toys. Activity and quiet periods should be alternated so as to guard against over stimulation of the child.

4. Children shall have a rest period of at least one hour.

5. While awake, infants and toddlers shall not remain in a crib, a baby bed, or a playpen for more than 30 minutes continuously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2777 (December 2007).

§7379. Care for Children during Nighttime Hours

A. The Minimum Standards for child care centers also apply to centers which provide care after 9:00 p.m. with the inclusion of the following standards as set forth in this section.

1. Any child care center caring for children at night must follow the same requirements for personnel standards as previously stated.

2. A minimum of one adult shall be present at all times during nighttime care.

B. In addition, the following standards shall apply:

1. the adult in charge must remain awake all night and directly supervise the children at all times;

2. meals must be served to children who are in the center at the ordinary meal times;

3. each child shall have separate sleeping accommodations. These accommodations shall include age appropriate crib, cot with a mat or mattress or bed;

4. evening quiet time such as story time, games, and reading shall be provided to each child arriving before bedtime;

5. no physical restraints shall be used to confine children to bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1643 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007).

§7381. Discipline

A. Each center shall establish a written policy in regard to methods of discipline stating what methods of discipline will and will not occur. This statement must be made available to parents/guardians and licensing personnel.

B. If corporal punishment is used, the following guidelines are applicable and shall be included in the written discipline policy.

1. Permission for corporal punishment must be in writing from the parents. Documentation of details of the incident/infraction and punishment administered is required. A copy of the documentation must be kept on file at the child care center and a copy given to the parents.

2. Parents must be notified by phone before corporal punishment is administered. Documentation of the phone contact must be kept on file.

3. Written permission for corporal punishment of a child shall not be a preadmission requirement for children to be enrolled in a child care program.

4. Corporal punishment will not be used on children 24 months and younger.

5. Any implement other than the open hand shall not be considered as corporal punishment but mistreatment of the child.

6. Corporal punishment shall only be administered by the director in the form of and not more than three spanks of the open hand on the clothed buttocks of a child older than 24 months of age. A second adult must be present during the administration of the spanking and the spanking must be documented and signed by both adults present.

C. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted on children.

D. Derogatory remarks shall not be made in the presence of the children about family members of the children in care or about the children themselves.

E. No child or group of children shall be allowed to discipline another child.

F. When a child is removed from the group for disciplinary reasons, he shall never be out of sight of a staff member.

G. No child shall be deprived of meals or any part of meals for disciplinary reasons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007).

§7383. Abuse and Neglect

A. Any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007).

§7385. Supervision

A. Children shall be supervised at all times. All children shall never be left alone in any room or outdoors at any time without a staff present.

B. While on duty with a group of children, child care staff members shall devote their entire time:

1. in supervision of the children; and
2. in participating with them in their activities.

C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

D. At naptime, children may be grouped together with one worker supervising the children sleeping while other workers rotate various duties and lunchtime. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy state required child/staff ratios.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007).

Subchapter B. Licensing Class "A" Regulations for Day Care Centers Caring for Sick Children

§7387. Definitions

Child Day Care Center—any place or facility operated by any institution, society, corporation, person or persons, or any other group for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18 years not related to the care giver and unaccompanied by parent or guardian, on a regular basis for at least 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay, shall be known as a full-time day care center.

Sick Child—any child who is prohibited from usual participation in a day care center (as defined above) due to discomfort, injury or other symptoms of illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1130 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007).

§7388. Standards

A. The Louisiana Administrative Code, Title 67, Chapter 73, §7301 et seq., which pertain to Class "A" day care licensing regulations, apply to the sick child day care centers as well.

B. In addition to §7309 regarding application for licensure, any existing facility approved as a day care center that wishes to utilize the facility for sick child care, must submit another application and fee for licensure as a sick day

care center. Facilities and/or rooms designated for use by and for sick children shall not be used by children or staff from any other day care component. Children and staff who begin their day in a sick child care center shall remain throughout the day and shall not be permitted to return to any other part of the child care center or transfer to any other child care center.

C. Facilities receiving approval as a sick child care center that are also approved as a day care center will be issued one license designating licensure for both components. The licensee shall ensure that the day care center for sick children is maintained physically separate and apart from the other day care center components. A center licensed for both day care and sick day care must be relicensed for each component. A center licensed for both day care and sick day care may have a license revoked for either or both of the above components according to §7309.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1130 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007).

§7389. Personnel

A. All personnel shall have verification of current immunizations. (See Appendix A for recommended immunization as dictated by the Office of Public Health.)

B. All personnel shall have verification of an annual TB test with negative result.

C. In addition to §7309.G, there shall be a currently licensed nurse practitioner or registered nurse on the premises on the sick day care center at all times. The registered nurse must have documented experience in pediatrics or child care experience and be knowledgeable in communicable diseases and child care licensing requirements.

D. Sick day care providers shall utilize the services of a physician consultant as verified by written contract or agreement.

1. The consultant shall be used to assist the nurse in the development and annual review of written policies and procedures for the following:

- a. admission, including inclusion/exclusion criteria;
- b. health evaluation procedures on intake including physical assessment of the child and other criteria used to determine the appropriateness of a child's attendance;
- c. plans for health care and managing children with communicable disease;
- d. plans for disease surveillance and problems which arise in the care of children;
- e. plans for staff training and communication with parents and health care providers;
- f. employee health and immunization requirements.

2. The physician consultant shall provide on-going consultation to the program in its overall operation and the management of illness for individual children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1131 (October 1994), repromulgated by the Department of

Social Services, Office of Family Support, LR 33:2779 (December 2007).

§7390. Training

A. In addition to §7311 regarding staff training and development, all facilities licensed as a sick child care center shall conduct and document 20 hours of orientation training by the registered nurse for each staff member upon employment or within 30 days of employment to include training in each of the following subjects:

1. first aid and CPR;
2. general infection control procedures; including:
 - a. handwashing;
 - b. handling contaminated items;
 - c. use of disinfectants;
 - d. universal precautions;
3. care of children with common childhood illnesses including:
 - a. disease transmission;
 - b. recognition and documentation of illness signs and symptoms;
 - c. health department notification of reportable diseases;
 - d. administration of medications;
 - e. temperature taking;
 - f. nutrition of sick children;
 - g. communication with parents of sick children;
 - h. knowledge of immunization requirements;
 - i. when and how to call for medical assistance;
4. child development activities for children who are sick.

B. An employee who transfers from one facility to another within one year can transfer documented orientation training to the new facility.

C. Annually, each director and staff member of a sick child care facility shall have at least three contact hours of continuing education related to the care of sick children and the prevention and control of communicable disease. This should be some formal type of training and can represent three hours of the 12 hours already required in Chapter 73, §7311.

D. In addition, four hours of annual training in general aspects of infection control in child care are to be conducted by the nurse practitioner or registered nurse. Documentation shall consist of the minutes of the training/staff meetings or statement signed by both the employee/provider (director, nurse practitioner, etc.) attesting to having received the training. This documentation shall be filed in the employee's personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20: (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007).

§7391. Staffing

A. §7313 regarding staff/child ratio and §7317 regarding group size will not apply to sick child care centers. Facilities approved as a sick child care center shall maintain a staff/child ratio no less than the following:

Child's Age	Staff/Child Ratio	Maximum Group Size* Per Room
0-12 month(s)	1:3	3
13-24 months	1:3	6
25-59 months	1:5	10
5-7 years	1:8	8
8-12 years	1:10	10

*NOTE: These numbers may vary according to the specific disease or illness. Final approval will be required by the health department or physician consultant.

B. The number of qualified medical personnel (licensed practical nurse or registered nurse) required depends on the severity of illness/level of professional care required.

1. Level 1—Nonacute (mildly sick, recuperating from ear infections, chickenpox, influenza, etc.) one medical personnel per 20 - 25 children.

2. Level 2—Acute (recent surgery requiring skilled nursing care, use of apnea blanket, etc.) one medical personnel per 10 children.

C. When there are mixed age groups, excluding children under one, the staff/child ratio shall be consistent with the age of the youngest child. Children under the age of one shall not be placed in a room with older children.

D. A caregiver assigned to a specific group of sick children - shall remain with those same children throughout the caregiver's workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1131 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007).

§7392. Plant Equipment

A.1. In addition to §7319.A. 1 regarding indoor space, a center providing day care for sick children as a component of a licensed center for well children shall use rooms/areas and facilities which are physically separated by floor to ceiling walls from other components of the center. The center shall ensure that all entrances/exits, fixtures, furniture, equipment and supplies designated for use in the care of sick children and for use by the children shall not be shared with or used by any other component of the center.

2. A single kitchen may be shared by the facilities for sick and well children if the kitchen is staffed by a cook who has no other child care responsibilities.

B. Children with respiratory illnesses, gastrointestinal illnesses and noninfectious illnesses shall be cared for in a separate room from each other to reduce the likelihood of disease transmission between disease cohorts of children by limiting child-to-child interaction, separating staff responsibilities by disease cohort, and limiting the commingling of supplies, toys and equipment.

C. Children with chickenpox and measles shall not be admitted for care in a sick child care center unless the care shall take place in a separate room, which is externally ventilated outside of the facility (preferably a positive airflow system) with floor to ceiling walls. There must also be a separate exterior entrance for these children to enter the sick day care center.

D. §7319.A.2.a should be omitted and the following inserted: A program for sick day care children shall not be required to have 75 square feet of outdoor space for each child. The program should instead develop a written plan to ensure some opportunities for safe outdoor activities in accordance with §7323.C.2.

E. In addition to §7319.B. 1 regarding available working telephone, the capability of having a three-way conversation on the telephone is required. This regulation allows for the timely and accurate communication between the parent, the child's pediatrician or the physician consultant, and the registered nurse from the sick child care center. Communication with parents and children's physicians should be handled by the registered nurse, licensed practical nurse or management staff only.

F. In addition to §7319.B regarding furnishings and equipment, a toilet and handwashing sink shall be present in each child care room. All rooms used for diapered children must have a diaper changing area placed adjacent to the handwashing sink.

G. §7319.B.6 regarding individual and appropriate sleeping arrangements is amended to omit any reference to use of mats.

H. §7319.B.8 regarding spacing is amended to require 3 feet of space between cribs or cots when in use.

I. All children in attendance are to be under direct visual observation by program staff at all times.

J. Children shall have access at all times to rest/nap areas without distraction or disturbance from other activities whenever the child desires.

K. In addition to §7319.0 regarding sanitary requirements, the following shall be included:

1. spills of body fluids (urine, feces, blood or wound drainage) shall be cleaned up immediately as follows:

a. in general, routine housekeeping procedures using a freshly prepared solution (every 24 hours) of commercially available cleaner (detergents, disinfectant-detergents, or chemical germicides) compatible with most surfaces are satisfactory for cleaning spills of vomitus, urine and feces;

b. for spills of blood or blood-containing body fluids and wound drainage, a freshly prepared solution (every 24 hours) of household bleach (1/4 cup diluted in one gallon of water) shall be used to disinfect the area of the spill. Disposable gloves shall be used in these situations;

c. persons involved in cleaning contaminated surfaces shall avoid exposure of open skin lesions or mucous membranes to blood or blood-containing body fluids and wound or tissue drainage by using gloves to protect hands when cleaning contaminated surfaces;

d. hands are to be washed after activities a, b or c;

2. toys which are placed in children's mouths shall be cleaned with water and detergent, disinfected and rinsed before handling by another child. Nonwashable toys shall not be provided by the center. If such toys are brought from home they must be limited to personal use articles that are NOT shared between children;

3. single-use, disposable cups shall be provided for all children. Disposable plates and eating utensils shall be used unless there is a mechanical dishwasher meeting local sanitation standards.

L. In addition to §7319.E.5 regarding safety requirements, the sick child care center shall have several different sizes of oral airways on hand in case of emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1132 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007).

§7393. Admission Policies and Procedures

A. In addition to §7321 regarding admission of children to the day care center, the sick child care facility shall develop a written procedure prior to initiating services, to obtain necessary medical information to meet health standards, (e.g., immunizations, inclusion/exclusion) and to implement the program. This includes the background diagnostic information, health and social history. Information shall be sought on all therapies and treatments being provided to the child along with the expected length and frequency of expected services. The sick child care program shall include a procedure for conducting physical assessments on all children entering the facility. The program shall also institute a policy on the management of children with communicable diseases. These policies must be in compliance with all sick day care center regulations.

B. Specific disease surveillance policies shall be employed to prevent and control communicable diseases in the sick child care center. Each sick child care center shall have a written policy for reporting certain communicable disease cases to the Office of Public Health and notifying the parents.

C. The facility's program shall obtain and keep records of the child's immunization and health history, treatments, prescribed medications and any special procedures that the child may require.

D. The facility's program shall also describe feeding, toileting, active and quiet activities, and special interventions for children with special needs and shall be made available to parents and licensing staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1332 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2781 (December 2007).

§7394. Physical Assessment

A. Prior to admission to a sick day care center, the registered nurse shall review the child's condition and medical history with the parent to determine if the child is eligible for sick care, the placement of the child and his/her care plan. This should preferably be done by phone to minimize exposure to other children and to eliminate the need for a visit to the facility if ineligible.

B. If it is determined that the child may be eligible for sick child care, a physical assessment shall be performed by a registered nurse or physician. Physical assessments shall document the following:

1. if child can be admitted to the sick day care center;
2. if child should be referred to a physician;

3. if child has signs of a contagious illness or a more serious illness that is not immediately apparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1133 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2781 (December 2007).

§7395. Care of Children

A. In addition to §5309.G.3.b.ii, no staff member with infectious skin lesions which cannot be covered shall be responsible for food handling.

B. Each meal and/or snack shall be prepared in accordance with the requirements of the physician and the subsequent care plan. Parents are allowed to provide food if this practice is within the facility's approved policies and procedures.

C. §7323.B.1 is amended as follows: The administration of prescription medicines at the sick child day care center shall be limited to those prescribed by a licensed physician for the individual child in the original container labeled by a pharmacist. Over the counter drugs may be administered with written permission of the parent or guardian in conformity with the policies and procedures established by the physician consultant or the child's physician. All medication (prescription or over the counter) shall be in the original container.

D. §7323.B.5 is amended for sick child care to read as follows: The sick child care facility shall not accept or retain any child for care who displays any of the following signs, symptoms or illnesses:

1. labored breathing;
2. undiagnosed rash;
3. fever of 101°F or greater by rectal standards in any child under three months of age;
4. fever of 101°F or greater by rectal standards in any child under one year of age not seen by a physician;
5. persistent vomiting and/or severe diarrhea;
6. signs of dehydration;
7. untreated lice, scabies, pinworm, ringworms;
8. severe lethargy (drowsiness);
9. symptoms of pertussis such as: whooping cough, spasmodic cough with vomiting or persistent cough with profuse nasopharyngeal secretions not diagnosed by a physician;
10. sore throat accompanied by fever (above 100°F oral) not seen by a physician;
11. undiagnosed stomatitis;
12. fever (100° F oral or 101° F rectal) associated with any one or more of the above symptoms;
13. contagious stage of measles, chicken pox, or mumps unless sick child care facility is expressly set up to handle these children according to §7319.A. The child with one of these diseases must be able to enter the facility by a separate entrance/exit from the rest of the children;
14. any other conditions that the nurse practitioner or physician consultant determines should be excluded.

NOTE: Children with such conditions as specified in §7323.B.5 above may be accepted for sick child care when the evaluation and health assessment conducted by the nurse practitioner or physician consultant results in the determination that the child is not seriously sick.

E. Children needing post-operative convalescent care and children with short-term disabilities such as tracheostomy tubes, colostomy, gastrostomy tubes or apnea monitors or children with long-term disabilities who exhibit illnesses/symptoms for which they are excluded from a day care program for well children may be admitted to a sick day care center if the program can ensure all of the following:

1. The center has on staff a registered nurse with documented competence to handle a specific disability.

2. The center has appropriate equipment and staff with documented competence and/or experience in operating the equipment.

3. The center has, prior to admission, written permission from the child's physician with specification of any skilled nursing treatment to be provided to the child.

F. The sick child care center shall be equipped to isolate and care for any sick child who is suspected of having a communicable disease.

1. The isolation area shall be located to afford easy observation, access and continuous supervision. The child shall be under constant visual observation by staff.

2. The isolation area shall not be in the kitchen, food preparation or general use toilet area.

3. In centers that have both a day care and a sick day care component, the isolation area shall be separate from the isolation areas of all other day care center components.

G. A sick child shall be temporarily isolated if either one of the following occurs:

1. The center determines that the condition of the child becomes worse warranting notification of the parent.

2. The child is determined to have any one or combination of symptoms or conditions as specified in §7323.B.5.

H. §7323.B.6 is amended for sick child care to read as follows: The parent or legal guardian shall be notified immediately of any significant change in a child's behavior or signs of illness. This information and the subsequent notification of parent by phone shall be recorded in writing and filed in the child's record.

I. §7323.0 regarding daily program should be deleted. The following should be inserted.

1. A care plan shall be developed and updated daily for each child in order to establish guidelines for care, to assure that each child is treated as an individual and to assure continuity of care. The care plan shall be completed with the assistance of the child's parent and shall be verified by the parent's signature and date on the plan. The plan of care should consider:

- a. the age and stage of development of the child;
- b. symptoms or illness displayed;
- c. parent's and/or physician's instructions;
- d. observations;
- e. objectives for the child;
- f. activity level.

2. A variety of planned daily activities shall be designed to meet the needs of the sick children including:

a. quiet and active indoor and outdoor activities according to the developmental level, ability and physical condition of each child;

b. individual activities which will not promote interaction for use by children who are in the contagious

stages of their disease and by children who are not physically well enough to participate in group activities;

c. toys and equipment which are disposable or able to be sanitized.

3. The day care center for sick children shall maintain a chart for each child. The chart should contain such information as the child's care plan, physical assessment, medical history, admission sheet, medication permit and daily health record. The daily health record shall document the child's condition throughout the day and shall include, but not be limited to:

a. activities—such as the child's state of alertness, behavior, complaints, frequency and length of sleep, rest and play;

b. vital signs—temperature, pulse, respiratory rate;

c. intake—amount of food and liquid consumed;

d. output—number of bowel movements (consistency, color, etc.), number of times vomited (describe), number of wet diapers or trips to the bathroom, etc.;

e. any medications given—administration, dosage and times of.

J. A duplicate copy of the daily health record shall be provided to the parent upon the child's discharge from the sick day care center each day.

K. A sick child care center shall not provide transportation of children except to a medical facility in cases of medical emergency. Any exceptions to this regulation shall require prior approval by the Department of Social Services and must include added provisions as deemed necessary by the department and approved by the physician consultant. The parent or legal guardian must come to the center to release the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1133 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2782 (December 2007).

§7396. Infectious/Medical Waste Disposal

A. Clothing soiled with stool shall not be washed at the center. Soiled clothes shall be put in sealed plastic bags to be picked up by the child's parent or guardian at the end of the day. Only disposable diapers shall be used unless there is a medical contraindication such as allergies.

B. There are sufficient quantities of facial tissues, paper towels and supplies for handwashing, diapering and cleaning so that they are always available when needed. There are extra linen and mattress covers on hand in case of accidents.

C. Potentially infectious waste materials (kleenex, diapers, bandages and wound dressings, items soiled with blood, etc.) shall be discarded into sealed plastic bags which can be kept out of the reach of children. Needles, syringes or other "sharps" shall be discarded in break resistant, rigid, puncture resistant containers, the openings of which must be tightly closed prior to storage or transport. The openings shall be small enough to prevent an injury resulting from a child sticking his hand into the container. The day care center (known as a small generator of infectious/medical waste) must then transport this container when full to a larger generator (hospital or free-standing clinic) or contract with a licensed hauler.

NOTE: The day care center may wish to develop an agreement to transport their "sharps" container to the physician consultant's office for further disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1134 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007).

Ann S. Williamson
Secretary

0712#011

RULE

Department of Social Services Office of Family Support

Child Care Quality Rating System (LAC 67:III.5115-5123)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support adopted LAC 67:III.5115-5123, Subchapter C, Child Care Quality Rating System (QRS).

Adoption of Subchapter C, Quality Rating System (QRS), is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF). As a result of the devastation resulting from Hurricanes Katrina and Rita, child care centers in Louisiana have struggled to rebuild in affected areas. In other parts of the state, the centers have expanded their capacity to serve these displaced families. In an effort to guide child care centers as they restore critically needed child care services, the agency has established a quality rating system which uses licensing as the foundation and sets a continuum of quality indicators focused in the social-emotional needs of children. The Quality Rating System will provide a mechanism by which child care centers can be assessed regarding the level of quality care given. The QRS will also provide a guide for parents to choose higher settings of child care beyond basic licensure and will offer a structure for child care centers to communicate the level of quality provided in their facility.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

Subchapter C. Child Care Quality Rating System

§5115. Authority

A. The Child Care Quality Rating System is established and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007).

§5117. Definitions

Approved Courses—courses that are deemed approved by the department.

Assistant Directors—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

Assistant Teachers—any staff who cares for children at least 16 or more hours per week and is not a lead teacher and meets the assistant teacher criteria.

Child Care Center—a licensed day care center.

Child Care Resource and Referral (CCR&R)—a state and/or local organizations with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

Child Development Associate (CDA) Credential—a nationally recognized credential which can be used to meet staff qualification requirements.

Director—an administrator who meets the director qualifications and is on-site a minimum of 30 hours per week. This requirement can be met by having one or more persons on site who meet these qualifications.

Early Childhood Environment Rating Scale—Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University North Carolina that measure environmental indicators of quality. They include the Infant Toddler Environment Rating Scale-Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R), as well as the School Age Care Environment Rating Scale (SACERS) for school age programs, and the Family Child Care Environment Rating Scale, Revised (FCCERS-R) for family child care homes.

Group—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

Infant Toddler Environment Rating Scale-Revised (ITERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

Lead Teacher—a teacher who has primary responsibility for a designated classroom including, planning and supervision and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher.

Louisiana Pathways Child Care Career Development System—the state practitioner registry maintained by the Department of Social Services and/or its contractor. LA Pathways registers child care directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the Department of Social Services. Categories are established for child care staff, child care assistant teacher, child care teacher, child care assistant director and child care director. Information on LA Pathways can be found at <http://pathways.louisiana.gov/> or www.dss.state.la.us.

Quality Rating System (QRS) Points—points given in the Program, Staff Qualifications, Administrative Practices, and Family and Community Involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating 3, 4, and 5.

Service Period—the months within the calendar quarter for which a child received care.

Social Emotional Subscales of the Environment Rating Scales—a subscale of the ECERS-R and ITERS-R generate

by the scores earned on the Language-Reasoning, Interaction and Program Structure subscales of the ECERS-R and the Listening and Talking, Interaction and Program Structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for Program Points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007).

§5119. Quality Rating System Requirements

A. The Child Care Quality Rating System (QRS) is designed to assess levels of child care, support improvements of child care centers, and communicate the level of quality in early care and education programs. The QRS consists of five star ratings that can be earned by a licensed child care center, uses licensing as the foundation, and has four star ratings above Louisiana's licensing standards. The system components (administrative practices, family and community involvement, Program, and Staff Qualifications) have indicators that must be achieved to earn the star rating.

1. Foundation One Star—to participate at the one-star level, a child care center shall have a license to operate and comply with standards as defined in LAC 48:I.5301-5354.

2. Foundation Two Star—to earn a two-star award, a child care center must meet all the standards for a Foundation One Star, have been in operation for six months, and meet the following.

a. Administrative Practices

i. Written personnel policies including:

- (a). operational hours;
- (b). dress code;
- (c). use of telephone; and
- (d). schedule.

ii. Job descriptions that include list of qualifications on file and provided to all staff.

iii. Provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:

(a). employee health insurance or comparable health benefits;

(b). paid annual leave;

(c). paid sick leave;

(d). paid holidays;

(e). child care benefit/discount;

(f). bonus based on merit/achievement or education;

(g). retirement compensation;

(h). annual increments based on merit;

(i). tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;

(j). differential shift pay;

(k). flextime;

(l). pay professional association membership fee.

b. Family and Community Involvement

i. Parent provided pre-enrollment visit and center tour.

ii. Give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home.

- c. Program
 - i. Make four of the following activity areas available daily:
 - (a). art and creative play;
 - (b). children's books;
 - (c). blocks and block building;
 - (d). manipulatives; and
 - (e). family living and dramatic play.
 - ii. Complete a self assessment of program and develop an improvement plan.
- d. Staff Qualifications
 - i. Directors and teachers must join and maintain a current record with the Louisiana Pathways Child Care Career Development System Registry. A director must complete three hours of Environment Rating Scales training.
 - ii. Director (on-site)—
 - (a). three semester hour credits in care of young children or child development¹; and
 - (b). three semester hour credits in administration²; and
 - (c). one year experience in teaching young children in an early childhood program.

- iii. Assistant Director—
 - (a). three semester hour credits in care of young children or child development.¹
 - iv. Teacher—75 percent of lead teachers must meet one of the following:
 - (a). complete three semester hour credits course in care of young children or child development¹ from a list of approved courses or enroll in the course and complete within one year of employment.
3. Point Standards for child care centers seeking three star rating, four star rating, and five star ratings. To achieve a higher rating, a child care center must meet all requirements of the foundation two star and earn points in the program and staff qualifications by meeting the requirements listed below. At least one point must be earned in each program and staff qualifications. The quality point referenced in Subparagraph 3.c may also be earned. The total number of points will determine the star rating awarded to the center.

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. Program

Points	Criteria								
1	An average of 3.75 on the designated social-emotional subscale of the Environment Rating Scales (ERS) ³ , with no one classroom score lower than 3.0 on the subscale.								
2	An average of 4.0 on the designated social-emotional subscale of the ERS ³ with no one classroom score lower than 3.0 on the subscale.								
3	<ol style="list-style-type: none"> 1. An average of 4.25 on the designated social-emotional subscale of the ERS³ with no one classroom score lower than 3.25 on the subscale. 2. Staff: Child Ratio and Group Size <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">0-12 months 1:4,8</td> <td style="width: 25%;">25-36 months 1:8, 16</td> <td style="width: 25%;">4 yrs 1:12, 24</td> <td style="width: 25%;">6 yrs & up 1:20, 30</td> </tr> <tr> <td>13-24 months 1:6,12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> <td></td> </tr> </table> 3. Written transition procedures for children moving within a program or to other programs or beginning school. 	0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4,8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6,12	3 yrs 1:10, 20	5 yrs 1:15, 30							
4	<ol style="list-style-type: none"> 1. An average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS. 2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. 3. Staff: Child Ratio and Group Size <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">0-12 months 1:4, 8</td> <td style="width: 25%;">25-36 months 1:8, 16</td> <td style="width: 25%;">4 yrs 1:12, 24</td> <td style="width: 25%;">6 yrs & up 1:20, 30</td> </tr> <tr> <td>13-24 months 1:6, 12</td> <td>3 yrs 1:10, 20</td> <td>5 yrs 1:15, 30</td> <td></td> </tr> </table> 4. Written transition procedures for children moving within a program or to other programs or beginning school. 	0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30	13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30	
0-12 months 1:4, 8	25-36 months 1:8, 16	4 yrs 1:12, 24	6 yrs & up 1:20, 30						
13-24 months 1:6, 12	3 yrs 1:10, 20	5 yrs 1:15, 30							
5	<ol style="list-style-type: none"> 1. An average of 5.0 on the overall ERS, with no one classroom score lower than 4.0. 2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. 3. Provide a plan for continuity of care for all children 0-36 months of age. 4. Implementation of Louisiana's Early Learning Guidelines and Program Standards; Birth through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). 5. Staff: Child Ratio and Group Size: <table style="width: 100%; border: none;"> <tr> <td>0-24 months 1:4, 8</td> </tr> <tr> <td>2 yrs 1:6, 12</td> </tr> <tr> <td>3 yrs 1:8, 16</td> </tr> <tr> <td>4 yrs 1:10, 20</td> </tr> <tr> <td>5 yrs 1:10, 20</td> </tr> <tr> <td>6 yrs and up 1:12, 24</td> </tr> </table> 	0-24 months 1:4, 8	2 yrs 1:6, 12	3 yrs 1:8, 16	4 yrs 1:10, 20	5 yrs 1:10, 20	6 yrs and up 1:12, 24		
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2 yrs 1:6, 12									
3 yrs 1:8, 16									
4 yrs 1:10, 20									
5 yrs 1:10, 20									
6 yrs and up 1:12, 24									

b. Staff Qualifications

Points	Criteria
1	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director (on-site)</p> <ol style="list-style-type: none"> 1. Six semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience teaching young children in an early childhood program. <p>Assistant Director</p> <p>Three semester hour credits in care of young children or child development.¹</p> <p>Lead Teacher</p> <p>All of Lead Teachers must complete three semester hour credits in care of young children or child development from a list of approved courses¹ or enroll in the course and complete within one year of employment.</p> <p>Assistant Teacher</p> <p>50% of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>
2	<p>All teachers and directors complete three hours of ERS training.</p> <p>Director</p> <ol style="list-style-type: none"> 1. Nine semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year of teaching experience and one year teaching or administrative experience in an early childhood program. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. 75% of Lead Teachers must have completed six semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>50% of Assistant Teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development¹ and complete the course within one year of employment.</p>
3	<p>Directors and all teachers complete six hours of ERS training. Directors and lead teachers complete training in social-emotional screening of children. Director completes training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Twelve semester hours in care of young children or child development¹, and 2. Six semester hours of administrative coursework², and 3. One year teaching experience and 1 year administrative experience and one year teaching or administrative experience in an early childhood setting for a total of three years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. 75% of Lead Teachers must have completed nine semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. One year full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>50% Assistant Teachers must have completed three semester hour credits in the care of young children or child development¹.</p>

4	<p>Directors and all teachers complete 6 hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and lead teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Fifteen semester hour credits in the care of young children or child development¹, and 2. Six semester hour credits of administrative coursework², and 3. One year teaching experience and one year administrative experience and two years teaching and/or administrative experience in an early childhood setting for a total of four years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Three semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administrative coursework², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. 75% of Lead Teachers must have completed 12 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment, and 2. Two years full-time experience in an early childhood setting. <p>Assistant Teacher</p> <p>All Assistant Teachers must have completed three semester hour credits in the care of young children or child development¹.</p>
5	<p>Directors and all teachers complete six hours of ERS training. Directors and all teachers complete training in social-emotional screening of children and developing individual instructional plans for children based on specific developmental needs. Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Program Standards Birth Through Three, (DSS October 2005) and the LA Content Standards for Programs Serving Four-Year-Old Children (DOE June 2003).</p> <p>Director</p> <ol style="list-style-type: none"> 1. Associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, care of exceptional children and care of school age children or equivalent such as Director III LA Pathways and/or including, 2. Six semester hour credits or 75 hrs of administrative training², and 3. One year teaching experience and one year administrative experience and three years teaching and/or administrative experience in an early childhood setting for a total of five years experience. <p>Assistant Director</p> <ol style="list-style-type: none"> 1. Six semester hour credits in care of young children or child development¹, and 2. Three semester hour credits in administration², and 3. One year experience in teaching young children in an early childhood program. <p>Lead Teacher</p> <ol style="list-style-type: none"> 1. All Lead Teachers must have six semester hour credits in the care of young children or child development¹ from a list of approved courses, and 2. 75% of Lead Teachers must have completed 15 semester hour credits in the care of young children or child development¹ from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within a year of employment, and 3. Two years full-time experience in an early childhood setting for all teachers. <p>Assistant Teacher</p> <p>All Assistant Teachers must have completed six semester hour credits in the care of young children or child development¹ or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework¹ and complete within one year of employment.</p>

c. An additional quality point can be earned by meeting additional requirements in both the administrative practices and the family/community involvement areas.

Quality Point	
Points	Criteria
1	<p>Administrative Practices—meet three requirements below</p> <ol style="list-style-type: none"> 1. Provide four of the benefits from the list* of options below for all full time staff. 2. Include grievance procedure and a professional conduct code for staff in written personnel policies. 3. Pay scale based on education, experience, responsibilities and merit. 4. Provide training to staff on cultural sensitivity. 5. Written parent and staff confidentiality policy and provide training to staff <p>and</p> <p>Family/Community Involvement—meet four requirements below</p> <ol style="list-style-type: none"> 1. Participate in meetings for directors provided by Resource and Referral agency at least quarterly, with the director or assistant director attending 50% of the meetings. 2. Provide a complaint process for parents. 3. Offer opportunity for a formal parent/teacher conference meeting annually. 4. Provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, food stamps and information on a child's medical home. 5. Parent Advisory Council meets annually to review policies, procedures and parent handbook. 6. One group meeting per year offered to all families. <p>One parent education workshop offered per year by center or other agency.</p>

The following footnotes reference program criteria and staff qualifications in Section 5119:

Staff Qualifications

¹The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development: a CDA or have approved high school child development courses or have five years full-time experience in an early childhood program or have completed a Child Care Assistant Teacher 1 LA Pathways Classroom Certificate. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development: CDA or have completed a Child Care Assistant Teacher 2 LA Pathways Classroom Certificate. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

²The following may be substituted to meet the requirement for three semester hour credits in administration: LA Pathways Administrator Certificate or National Administrator Credential (NAC) or three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next QRS review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

³For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales: ITERS-R—Listening and Talking, Interaction and Program Structure; ECERS-R—Language-Reasoning, Interaction and Program Structure.

*Staff benefits options: employee health insurance or comparable health benefits; paid annual leave; paid sick leave; paid holiday; child care benefit/discount; bonus based on merit/achievement or education; retirement compensation; annual increments based on merit; tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2784 (December 2007).

§5121. Participation

A. A child care center will complete the application for participation in the Quality Rating System. A quality rating verification visit will be conducted by the department and one or more stars may be awarded.

B. Quality ratings will be valid for one year from the date of the star rating award. Ratings will have to be earned annually through the quality rating verification process.

C. Centers with one-star award may apply for a quality rating verification after receiving their one-star award. Centers with more than one-star may apply for a quality rating review six months after the date of their current rating award.

D. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or if the child care center is referred to the designated licensing committee with a recommendation from the department for revocation.

E. Centers that have achieved a star rating may have their rating reviewed and modified if, at any time, it becomes known to the department or the department receives information or has actual knowledge that the child care center no longer meets standards for the center's current star rating award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007).

§5123. Quality Rating System Awards

A. Bonus payments will be issued after the end of each calendar quarter to Class A child care centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating for the service(s) period for that quarter. The payment is equal to a percentage, as defined below, of all child care subsidy payments received from the department by the Class A center for services provided during the service period(s) based for that quarter on the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007).

Ann S. Williamson
Secretary

0712#097

RULE

**Department of Transportation and Development
Professional Engineering and Land Surveying Board**

Technical Revisions
(LAC 46:LXI.707, 2305, 2307, 2505, 2701, and 2907)

Under the authority of the Louisiana Professional Engineering and Land Surveying Licensure Law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its Rules contained in LAC 46:LXI.Chapters 1 through 33.

The amendments are primarily technical housekeeping revisions of existing board rules.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXI. Professional Engineers and Land Surveyors

Chapter 7. Bylaws

§707. Board Organization

A. - B. ...

C. Date of Elections. The election of board officers shall take place not later than at the board's November meeting. In the event that an officer cannot complete his/her term, an election in order to fill the unexpired term shall be scheduled at the earliest practical regular or special meeting.

D. - E.12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007).

Chapter 23. Firms

§2305. Supervising Professional

A.1. In the case of firms providing or offering to provide professional services in the state of Louisiana, all such professional services shall be executed under the responsible charge of a licensed professional, and designated by the firm as a supervising professional. Such licensed professional shall be an active employee of the firm:

a. - b. ...

2. When the work consists of plans, designs, specifications, reports or maps, such licensed professional shall affix his/her seal, signature and date to them, as required by law. The appearance of a seal on a document of any type shall constitute a representation that such document was prepared by the licensed professional or under his/her responsible charge.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007).

§2307. Professional Identification

A. Letterheads, business cards, advertisements and other similar identifying items issued by firms providing or offering to provide professional services in the state of Louisiana shall reflect the exact firm name contained on its certificate of licensure issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:116 (May 1979), amended LR 8:191 (April 1982), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1720 (August 2004), LR 33:2789 (December 2007).

Chapter 25. Professional Conduct

§2505. Services

A. - B. ...

C. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence, nor to any such plan or document not prepared under their responsible charge. Responsible charge requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title

searches and soil testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. The professional engineer and professional land surveyor may affix their seal, signature and date to drawings and documents depicting the work of two or more professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project.

E. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 32:1620 (September 2006), LR 33:2789 (December 2007).

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 1.a.ii. ...

2. Seal Design and Signature Requirements

a. - e. ...

f. A seal must always be accompanied by the licensee's signature and date. Electronic signatures are not authorized except for electronic transmission of work as stated herein below.

* * *

3. Seal Responsibility

a. ...

b. Responsible Charge

i. - i.(d).(ii). ...

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge and not subject to the authority of that licensee, except:

(a). in the case of an individual licensee checking the work of and taking the professional responsibility for an out-of-state individual licensee, the Louisiana licensee shall completely check and have responsible charge of the design. Such responsible charge shall include possession of the sealed, signed and dated reproducible construction drawings, with complete sealed, signed and dated design calculations indicating all changes in design;

(b). certification of standard design plans which are initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans. Standard design plans may then be reviewed by a Louisiana resident professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The professional engineer licensed in

Louisiana assumes responsibility for such standard designs. Standard plans, which bear the seal of a professional engineer licensed in another state, territory, or possession of the United States, or the District of Columbia, shall be sealed, signed and dated by the Louisiana resident professional engineer who is assuming responsibility. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

(c). certification of single family residential design plans for conformance with applicable state and local building codes. Such plans shall be sealed, signed and dated by the professional engineer who is making such certification. In addition to the seal, signature and date, a statement shall be included as follows:

"These plans have been properly examined by the undersigned. I have determined that they comply with the following existing state and local building codes for the jurisdiction in which the residence is to be located (*check all that apply*): structural; mechanical; electrical; plumbing."

iii. No licensee shall affix his/her seal, signature or date to documents having titles or identities excluding the licensee's name unless:

(a). - (c). ...

4. Seal Use

a. Completed Work

i. - i.(a). ...

ii. Drawings and Plats

(a). In the case of multiple sealings, the first sheet or title page shall be sealed, signed and dated by the licensee or licensees in responsible charge. In addition, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for each sheet.

(b). In the case of a firm, each sheet shall be sealed, signed and dated by the licensee or licensees responsible for that sheet and the licensee(s) in responsible charge shall seal, sign and date the title page or first sheet.

iii. Specifications, Reports, Design Calculations and Information

(a). In the case of specifications or reports of multiple pages, the first sheet or title page of each document shall be sealed, signed and dated by the licensee or licensees involved. Subsequent revisions shall be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

(b). In the case of a firm, the licensee in responsible charge shall seal, sign and date the title page or first sheet.

b. Preliminary Work

i. All preliminary documents, so marked in large bold letters, shall contain a statement that the documents are not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit. Preliminary documents are not required to have the licensee's seal, signature and date affixed, but must bear the name and licensure number of the licensee, and the firm's name, if applicable.

c. - c.i.(e). ...

5. Electronic Transmission

a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified. Drawings, reports or documents which are signed using a digital signature as defined in the rules shall contain the authentication procedure and a list of the hardware, software, and parameters used to prepare the document(s).

b. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007).

Chapter 29. Minimum Standards for Property Boundary Surveys

§2907. Property Boundary Survey

A. - B. ...

C. Product. A property boundary survey will result in the establishment of monumented corners; point of curvature and tangency; and reference points (see Subsection E, "Monuments"). In event that no plat of survey is required, the professional land surveyor must maintain adequate records to substantiate his professional opinion in reestablishing boundary lines and corners on a survey. If requested by the client, a boundary survey may also include the following:

1. a sealed, signed and dated metes and bounds written description depicting the surveyed boundary (see Subsection H, "Descriptions");

2. ...

3. a sealed, signed and dated written report of the surveyor's findings and determinations.

D. - F.7. ...

G. Plats, Maps, and Drawings. Every original plat or map of a boundary survey should be a reproducible drawing at a suitable scale which clearly shows the results of the field work, computations, research and record information as compiled and checked. The plat map or drawing shall be prepared in conformity with the following guidelines.

1. - 14. ...

15. Each plat, map or drawing shall show the following:

a. - e. ...

f. signature and seal of the professional land surveyor under whose direction the survey was done.

16. Final plats or maps issued to the client must contain a certificate sealed, signed and dated by the professional land surveyor certifying its authenticity (that it represents

his/her survey) and stating that the survey is in accordance with the applicable standards of practice as stipulated in this publication based on the current survey "classification" (see §2905 on Classification of Surveys).

H. Descriptions. A written legal description of the surveyed tract of land must provide information to properly locate the property on the ground and distinctly set it apart from all other lands. The following guidelines apply.

1. - 10. ...

* * *

11. The metes and bounds description shall then be sealed, signed and dated by the land surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 16:1065 (December 1990), amended LR 19:58 (January 1993), LR 22:714 (August 1996), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1043 (July 2001), LR 30:1726 (August 2004), LR 33:2790 (December 2007).

Donna D. Sentell
Executive Secretary

0712#025

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Public Oyster Seed Grounds (LAC 76:VII.517)

The Wildlife and Fisheries Commission does hereby designate additional state owned waterbottoms in Lake Mechant in Terrebonne Parish to be added to the Lake Mechant Public Oyster Seed Ground as described in LAC 76:VII.517. Authority to establish this addition to the Lake Mechant Public Oyster Seed Ground is vested in the Wildlife and Fisheries Commission by R.S. 56:6(12) and R.S. 56:434(A).

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§517. Public Oyster Seed Grounds—Portions of Lake Mechant, Lake Tambour, Lake Chien, Lake Felicity, Deep Lake, and Barataria Bay

A. The following areas are designated as oyster seed grounds:

1.a. Lake Mechant, Terrebonne Parish: The state waterbottoms within the following corners.

29° 19' 45.36273" N	90° 58' 19.84034" W
29° 18' 52.50955" N	90° 57' 32.90680" W
29° 18' 41.04086" N	90° 55' 58.95532" W
29° 16' 47.29750" N	90° 56' 44.37133" W
29° 18' 33.55333" N	90° 57' 37.82946" W
29° 18' 46.69380" N	90° 59' 21.09926" W

b. Additional portions of the Lake Mechant Public Oyster Seed Grounds are described as follows.

i. Addition 1: Beginning at a point on the border of the existing Lake Mechant Public Oyster Seed Grounds at latitude 29 degrees 18 minutes 33.5533 seconds N and longitude 90 degrees 57 minutes 37.8295 seconds W; thence southerly to a point at latitude 29 degrees 18 minutes 14.8543 seconds N and longitude 90 degrees 57 minutes 39.1397 seconds W; thence southerly to a point at latitude 29 degrees 18 minutes 03.4928 seconds N and longitude 90 degrees 57 minutes 38.8965 seconds W; then southerly to a point at latitude 29 degrees 17 minutes 42.1030 seconds N and longitude 90 degrees 57 minutes 28.7632 seconds W; thence southwesterly to a point at latitude 29 degrees 17 minutes 36.2469 seconds N and longitude 90 degrees 57 minutes 35.9244 seconds W; thence southerly to a point at latitude 29 degrees 17 minutes 29.3388 seconds N and longitude 90 degrees 57 minutes 30.9068 seconds W; thence southerly to a point at latitude 29 degrees 17 minutes 18.0878 seconds N and longitude 90 degrees 57 minutes 26.2988 seconds W; thence southerly to a point at latitude 29 degrees 17 minutes 12.1229 seconds N and longitude 90 degrees 57 minutes 22.7942 seconds W; thence southeasterly to a point at latitude 29 degrees 17 minutes 04.4969 seconds N and longitude 90 degrees 56 minutes 57.2000 seconds W; thence southeasterly to a point at latitude 29 degrees 17 minutes 01.3854 seconds N and longitude 90 degrees 56 minutes 51.4572 seconds W; thence northwesterly along the existing Lake Mechant Public Oyster Seed Grounds border to the point of beginning.

ii. Addition 2: Beginning at a point on the border of the existing Lake Mechant Public Oyster Seed Grounds at latitude 29 degrees 18 minutes 41.0409 seconds N and longitude 90 degrees 55 minutes 58.9553 seconds W; thence southerly to a point at latitude 29 degrees 18 minutes 30.9866 seconds N and longitude 90 degrees 56 minutes 01.3860 seconds W; thence southeasterly to a point at latitude 29 degrees 18 minutes 15.9476 seconds N and longitude 90 degrees 55 minutes 53.2347 seconds W; thence southerly to a point at latitude 29 degrees 17 minutes 59.3179 seconds N and longitude 90 degrees 56 minutes 07.0156 seconds W; thence southerly to a point at latitude 29 degrees 17 minutes 21.1676 seconds N and longitude 90 degrees 56 minutes 21.2961 seconds W; thence southerly to a point at latitude 29 degrees 16 minutes 47.2975 seconds N and longitude 90 degrees 56 minutes 44.3713 seconds W; thence northerly along the border of the existing Lake Mechant Public Oyster Seed Grounds to the point of beginning.

2. - 6. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(12) and R.S. 56:434(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:214 (February 2001), repromulgated LR 27:431 (March 2001), amended LR 33:2791 (December 2007).

Earl P. King, Jr.
Chairman

0712#058

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of the State Library

State Library of Louisiana
(LAC 25:VII.Chapters 1-53)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 44:718(D), the State Library of Louisiana proposes to change the content of Chapters 1-53 to reflect agency and departmental name changes as well as changes in procedures within the agency to bring into line the rules with the actual names of the agency and departments and with current practices.

Title 25

CULTURAL RESOURCES

Part VII. State Library

Subpart 1. Readers' Services

Chapter 1. Eligible Public

§101. Use of Library

A. Any citizen or any public, school, academic, special, or state institutional library is eligible to use without charge the library materials and services of the State Library of Louisiana, as provided in these rules.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§103. Information and Loan

A. Any citizen may use library materials and receive information and reference service at the state library.

B. Any citizen registered for library service with his local public, academic, state agency, or state institutional library shall borrow state library materials through his local library. The exception to this rule is:

1. if the state library receives telephone or written authorization, including facsimile or electronic mail, from a patron's parish library, he may borrow directly with the materials being charged to the parish library.

C. Elementary and secondary school libraries may borrow state library materials through their local public libraries.

D. Information, reference, and loan services of the state library are available directly to:

1. state elected and appointed officials and state employees including those who are retired;

2. accredited members of the Louisiana public information media;

3. officers and employees of agencies listed in the Louisiana State Government Directory;

4. students and faculty members of the Louisiana State University Graduate School of Library and Information Science;

5. all public, academic, special, and state institutional libraries whether in or outside of the state;

6. State Library of Louisiana Board of Commissioners.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§105. Films and Recordings

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§107. Blind and Physically Handicapped

A. Any Louisiana resident who cannot use standard print materials because of temporary or permanent visual impairment or physical handicap may use directly the special library materials and services of the state library's Services for the Blind and Physically Handicapped. Eligibility based on this qualification required by the federal government must be certified by a professional in the medical, social work, or educational field.

B. This service is also extended to schools, hospitals, nursing homes and other agencies having one or more eligible handicapped persons in their care.

C. Eligible Louisiana residents temporarily out of state (for not longer than three months) may continue to be served at their destination point. For longer periods, it is recommended that temporary service be applied for from the library for the blind and physically handicapped regularly serving the area of their temporary residence. United States citizens who move either temporarily or permanently overseas (including Puerto Rico, Guam and the Canal Zone) will be referred to the Library of Congress, Division for the Blind and Physically Handicapped, for service.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9 and R.S. 25:16.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

Chapter 3. Library Materials

§301. Information and Loan of Materials

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§303. Films and Recordings Materials

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§305. Blind and Physically Handicapped Materials

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

Chapter 5. Services

§501. Information and Loan Services

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§503. Films and Recordings Services

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§505. Blind and Physically Handicapped Services

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§507. Patrons' Right to Privacy

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repromulgated by Department of Culture, Recreation and Tourism, Office of the State Library, LR 28:1576 (July 2002), repealed, LR 34:

Subpart 2. Library Technical Services

Chapter 13. Louisiana Union Catalog

§1301. Louisiana Union Catalog Program Functions

A. The Louisiana Union Catalog Program provides a continually updated electronic file listing and description of all library materials held by Louisiana publicly funded public and academic libraries.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§1303. Incorporation of Titles Submitted by Libraries

A. Responsibility for the currency and accuracy of holdings information in the electronic database is charged to each individual library.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§1305. Bibliographic and Location Information

A. Bibliographic and location information contained in the central electronic file is available to anyone on request.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, amended by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§1307. Information Submitted by the Louisiana Library Association

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§1309. Bi-Monthly Updates

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:451 and R.S. 25:453.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

Subpart 3. Library Development

Chapter 23. Regional Library Systems

§2301. Long-Range Plan

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§2303. Qualifying Conditions

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

§2305. Definitions of Conditions for Qualifying for a Library System Grant

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9, R.S. 25:14 and R.S. 25:15.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

Chapter 27. Auditorium and Conference Room-Use by Public

§2705. Patrons' Right to Privacy

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 25:9.

HISTORICAL NOTE: Filed by the Louisiana State Library at the Office of the State Register, December 11, 1974, repealed by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 34:

Subpart 4. State Aid to Public Libraries Grant

Chapter 31. Disbursement of State Aid Grants

§3101. Definitions

A. The following terms have the respective meanings ascribed to them, except in those instances where the context clearly indicates a different meaning.

Audiovisual Materials—educational materials directed at both the senses of hearing and sight, and includes motion pictures, videocassettes, audiocassettes, CDs, DVDs, sound and silent filmstrips, slide sets, recordings, microprint, and art works used in library collections.

Consolidated Library System—a library system, established by the governing bodies or authorities of two or more parishes as provided in R.S. 25:211, which crosses parish lines and is governed by a single board of trustees, administered by a single head librarian, and within which all of the service outlets are branches of a single institution.

District Library—a library established by state law, for a defined district within a parish, to serve residents of the district.

Free Basic Library Service—standard library service including the use of the principal circulating collection of the library and standard reference/information services without charge.

Municipal Library—a library, established by one or more municipal governing authorities as provided by law to serve all residents of the municipality or municipalities and which may or may not serve additional persons.

Non-Consolidated Library System—a library system which is composed of two or more autonomous member libraries, each having its own board of trustees, controlled by representatives of member libraries, and operated from a designated library center under the supervision of a system director, and which receives special financial support from local, regional or state appropriations to provide more comprehensive library service in the geographical area served by the system.

Parish Library—a library, established by a parish governing authority, as provided by law to serve all residents of the parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:107 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), LR 34:

§3103. Submission of Applications

A. The state librarian shall establish a program of supplemental grants to libraries for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals in accordance with the provisions of this Part. The state librarian may establish rules and regulations for implementation of this program in accordance with the Administrative Procedure Act. Grants may be made from funds appropriated to the state library for allocation to libraries as provided herein.

B. Any parish library which serves all residents of the parish, any municipal library which serves all residents of a parish which does not have a parish library, any consolidated library system, and any district library shall be entitled to apply annually to the state librarian to receive supplemental grants in accordance with the provisions of this Part.

C. Applications to receive supplemental grants shall be submitted with the written approval of the Library Board of Control.

D. Grants shall be made by the state librarian on the basis of annual applications for grants submitted to the state librarian. Applications for state fiscal year must be made by

November 1 of the same state fiscal year. Exceptions for extending expenditures to the next fiscal year may be granted by the state librarian.

E. Applications shall contain such information as may be requested by the state librarian to establish the eligibility of the library under the provisions of this Part and rules and regulations promulgated by the state librarian. Applications shall also contain a proposal for expenditure of funds for which application is made.

F. Funds granted under the provisions of this Part shall be expended only for the purchase of technology enhancement, technological information resources, books, audiovisual materials, newspapers, and periodicals. Exceptions for expenditures on items other than those listed above may be granted by the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 24:2232 (December 1998), LR 34:

§3105. Eligibility

A. Each library or consolidated library system represented by the applicant must be legally established according to Louisiana Revised Statutes Title 25, Section 211, except for the New Orleans Public Library which was established prior to the enactment of Title 25.

B. Each library or consolidated library system must agree to serve all patrons with free basic library service with no denial of service by reason of race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, or disabilities.

C. Each library or consolidated library system shall show evidence of working toward the standards for public library service in Louisiana as adopted by the Louisiana Library Association.

D. Each library or consolidated library system participating in the program of supplemental grants shall endorse and comply with the interlibrary loan code adopted by the Louisiana Library Association to assure the interlibrary availability of materials purchased from funds granted herein.

E. A parish library which serves all residents of the parish, a municipal library which serves all residents of a parish which does not have a parish library, and a consolidated library system shall be eligible to apply to receive supplemental grants if other conditions of eligibility are met.

F. - F.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 13:392 (July 1987), LR 34:

§3107. Maintenance of Local Effort

A. Grant funds cannot be used for personnel or regularly budgeted items. Nothing in these rules and regulations shall be construed to effect a substitution of state funds for library service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:108 (March 1980), amended LR 7:407 (August 1981), LR 8:591

(November 1982), LR 13:392 (July 1987), LR 24:2232 (December 1998), LR 34:

§3109. Distribution of Supplemental Grants

A. The state library shall grant funds under the provisions of this Part to any library, consolidated library system, or district library which makes application therefore and which is eligible for such funds as provided herein. Grants shall be made on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:109 (March 1980), amended LR 7:407 (August 1981), LR 13:392 (July 1987), LR 24:2232 (December 1998), LR 34:

§3111. Annual Reports to the State Library

A. Each library, consolidated library system, or district library applying annually to the state librarian for and receiving supplemental funding grants shall furnish to the state librarian, an annual report of such information concerning library technology and/or materials purchased as the state librarian may require, specifically including a description and financial accounting of all library technology and/or materials purchased from funds received under the provisions of this Part. The legislative auditor for the state of Louisiana shall have the option of auditing all accounts pertaining to grants made to grant recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:109 (March 1980), amended LR 24:2232 (December 1998), LR 34:

§3113. Appeal Process

A. If a public library, consolidated library system, or district library is denied the grant for technology materials and/or library materials, the avenue to appeal this decision will be first the state librarian, next, to the Secretary of the Department of Culture, Recreation and Tourism, and finally, to the lieutenant governor of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:14.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 6:109 (March 1980), amended LR 13:392 (July 1987), LR 24:2232 (December 1998), LR 34:

Subpart 5. Public Document Depository System

Chapter 41. General Rules

§4101. Authority

A. These rules are promulgated by the state librarian who serves as the assistant secretary of the Department of Culture, Recreation and Tourism, Office of the State Library, as authorized by R.S. 25:122(B) and as required by the Administrative Procedure Act (R.S. 49:953).

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4103. Organization

A. The State Public Documents Depository Program is created as a unit of the state library under the direction of the state librarian who employs a graduate librarian to head the office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4105. Purpose

A. The state librarian has the duty to establish a depository system to facilitate the accessibility and preservation of state documents for the use of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4107. Advisory Council

A. In pursuing the mission to provide citizens of the state access to state government publications, the recorder of documents will seek the advice of an advisory council. Members will be appointed by the state librarian, and will include representatives of state agencies, state depositories, and other interested persons. Functions of the council shall be to advise on the selection, organization, distribution, and bibliographic control of publications; to recommend policy and procedures for the effective and efficient operation of the office of the recorder of documents and to provide a forum for the exchange of information and ideas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

Chapter 43. Deposit of Publications

§4301. Agency Responsibility

A. State agencies as defined in R.S. 25:121.1 are required to deposit copies of their public documents with the recorder of documents immediately upon publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4303. Public Documents Required to be Deposited

A. The public documents required to be deposited are those defined in R.S. 25:121.1. *Public Document* means informational matter, regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency, including material published with federal funds or by sub-state planning districts. This definition incorporates publications released by private bodies such as research and consultant firms under a contract with and/or under the supervision of any state agency. Further, this definition specifically includes journals, laws or bills, statutes, codes, rules, regulations; newsletters, bulletins, state plans, brochures, periodicals or magazines; minutes of meetings of boards and commissions, transcripts of public hearings; reports, directories, statistical compendiums, bibliographies, pamphlets, lists, books; charts, maps, surveys; other printed matter; microfilm, microfiche, audiovisuals; electronic documents. *Electronic Documents* denotes any discrete public document published in a static electronic or digital format. . Excluded from the definition of public documents are correspondence, interoffice or intra-office memoranda, records of an archival nature; interactive, non-discrete, constantly changing

electronic items such as Web sites, databases, ASP (active server pages), or software programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002), LR 34:

§4305. Public Documents Not Required to be Deposited

A. Correspondence and inter-office or intra-office memoranda and records of an archival nature are excluded.

B. Complete websites are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002), LR 34:

§4307. Core Collection

A. Core collection refers to those basic public documents which all depositories shall receive.

B. The needs of the public will be served best by distributing to all depositories those public documents which are the most useful and essential. Fewer copies of other state agency publications may be needed to meet the needs of the depository system. Therefore, in the interest of economy and efficiency, the recorder of documents with the aid of the advisory council will identify a core collection to be deposited in all participating libraries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4309. Number of Copies to be Deposited

A. The recorder of documents and the advisory council will determine the appropriate number of copies of each public document not included in the core collection which will be required to be deposited to meet the needs of the depository program in accordance with the contract between the depository and the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 34:

§4311. Liaison Officer of Agencies

A. The head of every state agency shall designate one of its staff members as the liaison officer for the agency and shall notify the recorder of documents on or before the first day of July of the identity of the liaison officer, and shall immediately notify the recorder of documents of any new liaison officer should a change occur. If a liaison officer is not appointed, the head of the agency serves as liaison by default. The liaison officer of each state agency shall have the duty to provide the recorder of documents with required copies of publications in whatever format they were originally published and to submit the URL's of Internet documents. The liaison officer shall compile and forward to the recorder of documents lists of the public documents of the agency, and to provide other related information as may be requested by the recorder of documents

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:187 (April 1982), amended LR 28:1577 (July 2002), LR 34:

§4313. Application of Rules

A. If the liaison officer is in doubt whether a specific publication is required to be deposited as set forth in the above rules, or if the number of copies to be deposited is burdensome because of cost or numbers published, or if the number of copies to be deposited is uncertain, the liaison officer of the agency shall consult with the recorder of documents for assistance in interpreting the regulations. If the agency is not satisfied with the determination of the recorder of documents, a written request should be submitted to the state librarian, who shall make the final ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 28:1577 (July 2002), LR 34:

§4315. Noncompliance by Agency

A. Noncompliance of an agency will result in a written notice of the noncompliance from the state librarian to the chief administrative officer of the agency. This notice shall state the alleged noncompliance, a specific date on which such noncompliance must be remedied, and that further noncompliance will result in a report to the attorney general and the governor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982).

§4317. Agency List of Publications

A. Every state agency shall provide to the recorder of documents a complete list of its public documents upon request of the recorder of documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 34:

Chapter 45. Depository Library System

§4501. Statutory Depositories

A. The State Library of Louisiana and Louisiana State University Library at Baton Rouge are legally designated complete depository libraries. They shall be the historical depository libraries, shall receive two copies of all public documents received by the recorder for distribution, and shall retain permanently one copy of each. The State Library of Louisiana is responsible for archiving and providing permanent public access to documents it receives that are issued solely in electronic formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 28:1577 (July 2002), LR 34:

§4503. Other Depositories

A. Libraries including those in state agencies and other institutions in Louisiana wishing to receive public documents through the depository system shall submit a written application to the state librarian requesting designation as a complete depository, or a selective depository. Special depository status is limited to the David R. Poynter Legislative Research Library.

1. Complete depositories shall receive one copy of all public documents received by the recorder of documents for

distribution and shall retain one copy for a minimum of six years.

2. Selective depositories shall receive one copy of the core collection and all public documents received by the recorder for distribution in the predetermined categories they select and shall retain one copy for a minimum of six years. Those libraries selecting only the core collection shall retain the latest edition of each document received.

3. The special depository shall follow standard selection procedures and shall comply with the contract made with the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 28:1578 (July 2002), LR 34:

§4505. Designation of Depositories and Contracts

A. The state librarian shall review the applications submitted, and shall grant depository status to applicants, taking into consideration user needs, geographic coverage, and level of service to be provided.

B. The state librarian and the administrator of the library/institution receiving depository status shall execute a contract which shall designate the depository status of the library/institution, the date depository status shall become effective, and shall include a statement of agreement to abide by the depository law, and the rules and regulations promulgated and adopted by the state librarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 34:

§4507. Termination of Depository Contract

A. Termination of the contract between the State Library of Louisiana and the depository shall be by written notice six months in advance of the proposed date of termination. The state documents received shall be retained by the depository until the normal retention date, unless otherwise advised by the recorder of documents.

B. Failure of a depository to abide by the depository law, rules and regulations and guidelines shall result in termination of depository contract by the state librarian upon six months written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 34:

§4509. Guidelines

A. The recorder of documents shall issue guidelines:

1. to aid state agencies in complying with the Louisiana Public Documents Law and the rules and regulations of the state librarian;

2. for the proper maintenance, housing, and servicing of public documents and which describe other responsibilities of the depositories; and

3. which delineate the functions and responsibilities of the recorder of documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:122(B).

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 8:188 (April 1982), amended LR 34:

Subpart 6. Board of Library Examiners

Chapter 51. Certification

§5101. Types of Certification

A. The State Board of Library Examiners issues two types of certificates:

1. executive;
2. temporary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5103. Candidate Requirements

A. Requirements to be met by candidates for executive certificates are:

1. a baccalaureate degree;
2. professional education, culminating in a Masters Degree in Library and Information Science representing a minimum of five years of study beyond secondary school level. This degree must have been granted by a library school accredited by the American Library Association;
3. three years of executive experience in a public library of recognized standing, after receiving the library science degree.

B. Candidates for temporary certificates must have all of the above qualifications except the years of executive experience. Such certificates are issued by the board only as emergency measures. It is expected that individuals holding temporary certificates will qualify for executive certificates within three years.

C. Candidates must attain a grade of at least 75 in the examination to be granted a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

Chapter 53. Examination

§5301. Examination Criteria

A. The examination covers the following aspects of public library service:

1. library organization and administration;
2. library budgets and financial operation;
3. standards for library service;
4. Louisiana laws pertaining to libraries and library administration;
5. current status of library development in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5303. Oral and Written Examinations

A. The examination is given both orally and written. The oral examination includes an interview with the candidate, and may be given on the same day as the written examination. In addition, the written statements from references supplied by the candidates are used in evaluating the candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5305. Application

A. Application blanks for permission to take the examination may be obtained from the State Board of Library Examiners, State Library of Louisiana, Box 131, Baton Rouge, LA 70821.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5307. Fees

A. At the time of application for examination, all applicants for certificates as librarians shall pay a fee of \$5 to defray expenses of the board, as required by Revised Statutes of 1950, Title 25, Section 222.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5309. Date of Examination

A. The examination is given annually on the last Friday in September, unless circumstances necessitate a change of date. Announcement of examinations is made at least two months before each examination is given, and all applications for that examination must be on file in the State Library of Louisiana not later than a month before the date of the examination. In an emergency, with special permission of the board, a candidate may be permitted to take the examination, if his application is received after the announced date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5311. Rights of Board

A. The board reserves the right to cancel any announced examination if fewer than three candidates signify their desire to appear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5313. Revocation

A. Any certificate may be revoked for cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5315. Duration of Certificate

A. Any executive certificate is issued for five years, and is renewable if the holder of same is serving in a satisfactory administrative capacity in a city, parish or state library position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

§5317. Temporary Certificate

A. A temporary certificate may be changed to an executive certificate without the necessity of another

examination if the holder completes the prescribed amount of executive experience in a public library of recognized standing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:222-223.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of the State Library, LR 11:250 (March 1985), amended LR 34:

Family Impact Statement

The proposed Rule will not affect the stability of the family, nor will it affect the authority and rights of persons regarding the education and supervision of their children. This Rule will not affect the functioning of the family. It will not affect the family earnings or family budget. This Rule will not affect the behavior or personal responsibility of children. Finally, neither the family nor local government will be able to perform the function as contained in this proposed Rule because the action proposed is strictly a state enforcement function.

Any person may submit data, views or positions, orally or in writing, to the State Library of Louisiana by writing to P.O. Box 131, Baton Rouge, LA 70821-0131, or by telephoning at 225-342-4923 and facsimile 225-342-3547.

Rebecca Hamilton
State Librarian

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Library of Louisiana

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units are anticipated as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or economic benefits to directly affected persons or non-governmental groups are anticipated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have no impact on competition and employment in the public or private sectors.

Rebecca Hamilton
State Librarian
0712#040

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development

Mentor-Protégé Program (LAC 19:II.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of Business Development, hereby proposes to amend its existing rules and regulations relative to its Mentor-Protégé Program, and to adopt the following amended rules and regulations relative to the Mentor-Protégé Program. The

intended action complies with the statutory law administered by the agency, as authorized by R.S. 51:941 et seq.

The department has found a need to amend in its entirety Sections 501 through 515 of Chapter 5 in accordance with Act 356 of the 2007 Regular Session of the Louisiana Legislature and R.S. 47:6026. This program is intended to provide technical and economic benefits to Louisiana-based contractors who will create and/or retain jobs for Louisiana citizens; and enhance the entrepreneurial construction business environment thereby expanding the economy of the state and enlarging quality jobs available in Louisiana.

Title 19

CORPORATIONS AND BUSINESS

Part II. Small and Emerging Business Development Program

Chapter 5. Mentor Protégé Tax Credit Program

§501. General

A. The intent of the Mentor-Protégé Tax Credit Program Act of 2007 (Act 356 of 2007; R.S. 47:6026 the provisions of which shall hereinafter be referred to as "Act 356") is to facilitate the growth and stability of Louisiana's economy by fostering the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, joint venture partner, or supplier of local, state, federal, and private markets. These provisions are to be read in pari materiae with Act 356. For the purposes of this rule, the "secretary" shall be either the Secretary of Economic Development or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§503. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity, large or small, which meets the criteria for participation as outlined below.

1. Mentor Firms:

a. committed and able to provide professional guidance and support to its protégés to facilitate their development and growth, particularly in the critical areas of private and public procurements in construction;

b. demonstrates favorable financial health, including profitability for at least the last two years;

c. demonstrates the capability to provide managerial or technical skills transfer or capacity building;

d. capable of contracting with private and public entities;

e. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

f. must remain in the program for the period of the developmental assistance as defined in the mentor/protégé plan; and

g. such other requirements by the secretary as shall be consistent with Act 356.

2. Protégé Firms:

a. is not an affiliate or related party of the mentor;

b. currently certified active in the Department of Economic Development's Small and Emerging Business

Development Program, or is registered in the state's Small Entrepreneurship/Hudson Initiative Program;

c. in "good standing" with the Secretary of State, and not in violation of any state statutes, rules, or governing policies;

d. must remain in the program for the period of the developmental assistance as defined in the mentor/protégé plan; and

e. such other requirements by the secretary as shall be consistent with Act 356.

B. Mentor Application and Selection

1. Approval of the secretary shall be obtained upon receipt and satisfactory review of an application that provides the information contained in the department's mentor application template (see Attachment A). Upon receipt, the secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a mentor under the rules and consistent with Act 356.

2. The application shall be reviewed by the Department of Economic Development to determine if the applicant qualifies as a mentor under the rules and consistent with Act 356.

3. Mentor applicant shall be notified by email of the status of the application.

C. Protégé Selection

1. Selection of the protégé is the responsibility, and at the discretion, of the mentor, with the concurrence of Louisiana Economic Development.

2. Protégés shall be selected from firms that are certified active in the Small and Emerging Business Development program, or are registered in the Small Entrepreneurship/Hudson Initiative program, and who are otherwise qualified under these rules before it begins participation in the mentor-protégé arrangement. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification in the Small and Emerging Business Development program or the Small Entrepreneurship/Hudson Initiative program. The protégé must meet the department's guidelines for certification in one or both of these programs as a condition of the mentor/protégé agreement acceptance.

3. The mentor or Department of Economic Development will notify protégé of its application status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§505. The Mentor-Protégé Agreement

A. The mentor-protégé agreement is a written agreement between the mentor and protégé, and approved by the Department of Economic Development.

B. The mentor/protégé agreement, signed by the respective firms, shall be submitted to the Department of Economic Development for approval. The agreement shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

C. The mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement.

D. The mentor/protégé agreement shall include information on the mentor's ability to provide managerial or technical skills transfer or capacity building.

E. The mentor-protégé agreement shall include termination provisions complying with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

F. The submitted mentor/protégé agreement shall be reviewed by Louisiana Economic Development and approved if the agreement is in compliance with the program's mentor/ protégé guidelines and is consistent with Act 356.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§507. Internal Controls and Monitoring

A. The secretary of the Department of Economic Development, or his designee, will designate and may change from time to time, one or more persons on his staff to act as the department's project representative or as the "mentor-protégé agreement monitor" for each mentor-protégé agreement, to provide liaison between the mentor, protégé and the department, and to perform various duties which are specifically provided for in the mentor-protégé agreement.

B. The mentor and protégé are responsible to inform the department of any problems, delays or adverse conditions which will materially affect their ability to attain agreement objectives, prevent the meeting of time schedules and goals, or preclude the attainment of agreement work units by established time schedules and goals. A statement of the action taken or contemplated by the mentor and protégé and any assistance which may be needed to resolve the situation shall accompany such disclosure.

C. Department controls will include:

1. approving, reviewing and evaluating mentor/protégé agreements for goals and objectives;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the program to determine program effectiveness and impact on the growth, stability and competitive position of small and emerging businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§509. The Mentor-Protégé Tax Credit

A. The following mentor-protégé tax credit rules shall be applicable to mentors who enter into a mentor-protégé agreement.

1. The mentor may earn and apply for and, if qualified, be granted a refundable credit on any income or corporation franchise tax liability owed to the state by the mentor. The amount of the refundable credit shall be established by the Department of Economic Development and contained in the mentor-protégé agreement.

2. The amount of the tax credits granted pursuant to the provisions of this Part shall not exceed \$50,000 per mentor-protégé agreement.

3. The mentor may participate in no more than two mentor-protégé agreements in any one tax year without the prior written approval of the secretary.

4. The mentor-protégé tax credits granted by the Department of Economic Development in any fiscal year shall not exceed \$1,000,000.

5. The mentor-protégé tax credit shall be deemed earned on the date of the investment and may be claimed in the tax year in which the investment is made. The credit earned by an individual shall be claimed on their individual income tax return, the credit earned by an S-corporation shall be claimed as provided by R.S. 47:1675(G), the credit earned by a corporation other than an S-corporation shall be claimed on the corporation income and franchise tax return of the corporation, and the credit earned by a pass through entity shall be claimed on the income or franchise tax returns of the members or partners as provided by R.S. 47:1675(F).

6. A tax credit granted pursuant to this Part shall expire and have no value or effect on tax liability beginning with the twenty-first tax year after the tax year in which it was originally earned, applied for, and granted.

7. In the event it is subsequently determined by the Department of Economic Development that the mentor has not complied with the requirements of the mentor-protégé agreement, or that the mentor was otherwise not qualified to earn a tax credit pursuant to this Part, any tax credits previously earned and applied against the mentor's tax liability shall be recaptured and added to the tax liability of the mentor for the year that such determination is made.

8. The secretary shall provide the mentor with all necessary and appropriate tax credit certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§511. Termination of Mentor Protégé Agreement

A. Termination for Cause. The state may terminate the mentor-protégé agreement for cause based upon the failure of the mentor or protégé to comply with the terms and/or conditions of the agreement, provided that the state shall give the mentor or protégé written notice specifying the failure. If within 30 days after receipt of such notice, the mentor or protégé shall not have either corrected such failure or, in a case which cannot be corrected in 30 days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the state may, at its option, place the mentor or protégé in default and the agreement shall terminate on the date specified in such notice. The mentor or protégé may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the state to comply with the terms and conditions of the agreement; provided that the mentor or protégé shall give the state written notice specifying the state's failure and a reasonable opportunity for the state to cure the defect.

B. Termination for Convenience. Either party may terminate the agreement at any time by giving 30 days written notice. The mentor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily. The state may amend and/or terminate the agreement due to budgetary reductions or changes in funding priorities by the state upon giving 30 days written notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), LR 34:

§513. Non-Performance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), repealed LR 34:

§515. Conflict Resolution

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6026(D).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:1573 (August 2000), amended by the Department of Economic Development, Office of Business Development, LR 29:545 (April 2003), LR 30:756 (April 2004), repealed LR 34:

Family Impact Statement

The proposed Rules 19:II. Chapter 5, Mentor-Protégé Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

- 1. the stability of the family;

- 2. the authority and rights of parents regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of the children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Craig Hartberg, through the close of business on January 18, 2008, at P.O. Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to Hartberg@la.gov; by fax to 225-342-6820. A meeting for the purpose of receiving the presentation of oral comments will be held on January 25, 2008 at the Department of Economic Development, 1051 North Third St., Baton Rouge, LA.

Michael J. Olivier
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mentor-Protégé Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Current staff and funding of the Department will be sufficient to implement, process, and monitor these Rules within the Program for Fiscal Year 2007-2008. Commencing Fiscal Year 2008-2009, one addition to staff will be required with an estimated incremental \$70,000 annual cost to the Department, increasing by four percent each year thereafter, due to the anticipated increase in participation in the mentor-protégé Tax Credit Program. Incremental increases commencing Fiscal Year 2008-2009 are anticipated to come from authorized appropriations received by the Department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The mentor-protégé Tax Credit is a refundable tax credit. Therefore, State General Fund revenues will decrease by \$1 million in Fiscal Year 2007-2008 if the program is fully subscribed, and \$1 million each fiscal year thereafter through Fiscal Year 2010-2011 if the program is fully subscribed. Fully subscribed under the mentor-protégé Tax Credit Program Act of 2007 (Act 356 of 2007; L.R.S. 47:6026) would be twenty (20) completed mentor-protégé agreements per year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The mentors, a directly affected non-government group, will incur employee and material costs to provide technical and business assistance to a protégé as provided in the mentor-protégé Agreement. To encourage mentor participation in the Program, these initial mentor costs can be recovered through the refundable tax credit of up to \$50,000 per Agreement, capped in the aggregate at \$1 million per tax year. The intent of the mentor-protégé Tax Credit Program is to provide technical and economic assistance to Louisiana-based contractors and subcontractors (protégés) and foster the overall development of protégé firms as competitive contractors, subcontractors, or joint venture partners for local, state, federal, and private markets; enhance the entrepreneurial construction business environment in Louisiana; and thereby expand the economy of

the state and enlarge quality jobs available for Louisiana citizens.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The "investment" of time and expertise by mentor construction firms in the development of smaller construction firms, as contemplated by the Rule, will enhance this State's economic development through the formation of new and the expansion of existing construction businesses, which investments in Louisiana will help create and/or retain jobs for Louisiana citizens and thereby enhance and expand economic development throughout Louisiana. By taking advantage of such business opportunities which may otherwise be exported out of Louisiana, local development, expansion and operation of such businesses will create increased competition among businesses and correspondingly increase employment prospects for Louisiana residents throughout the state.

Donald M. Pierson, Jr.
Assistant Secretary
0712#73

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 120—Adult Education Data Quality and Procedures (LAC 28: CXVII.101, 303-309, 501, 505, 507, and 701-707)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 120—Adult Education Data Quality and Procedures*: §101.Introduction, §303.Approved Assessments, §305.Placement in an Educational Functioning Level, §307.Follow-up Assessments, §309.Special Populations, §501.NRS Core and Secondary Measures, §505.Student Goal Setting for Core Measures, §507.Data Matching, §701.Data Accuracy and Entry, §703.Quarterly Reporting, §705.Literacy Pro Data System, and §707.Resolving Data Analysis Problems and Deviations.

The Department of Education has revised *Bulletin 120—Adult Education Data Quality and Procedures*, to reflect the approved additions to the USDE Nation Reporting System Guidelines, which became effective July 1, 2007. Below is a summary of the proposed revisions to *Bulletin 120—Adult Education Data Quality and Procedures*.

1. Bulletin 120 previously named a specific software and has been revised to read "approved adult education data management system."

2. Approved assessments have been revised to reflect current USDE approved assessments.

3. Placement of students according to assessments has been given a more specific timeframe.

4. Follow-up assessments have been aligned to adhere to the test publisher's guidelines.

5. Accommodations have been changed to align with new accommodations standards.

6. "Core and Secondary Measures" Section has been changed to include Corrections as an institutional program.

7. "Reporting Core Measures" has been changed to reflect the real-time, web-based data system. Previously, reporting was done quarterly; reporting is now required monthly.

8. "Data Entry Guidelines" have been changed to require an identifying number for students who do not have a social security number. Attendance has been changed to include the requirements for distance learning.

9. "Attendance Guidelines" have been developed and added to include the policy for counting students participating in the distance learning program of adult education.

Title 28

EDUCATION

Part CXVII. Bulletin 120—Adult Education Data Quality and Procedures

Chapter 1. General Provisions

§101. Introduction

A. - A.1. ...

2. inputting data into the state approved adult education database system;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005), amended LR 34:

Chapter 3. Assessment and Student Placement

§303. Approved Assessments

A. The Louisiana Department of Education has approved certain assessments, which are aligned with educational functioning levels within NRS to measure student level and growth. Only assessments on this list may be used to determine student placement upon intake or demonstrate educational growth: No other assessments, other than the assessments listed on the placement chart found in the NRS Guidelines, are to be used by local programs for placement purposes or to demonstrate educational growth at an educational functioning level.

B. - B.1. ...

2. Adult Basic Learning Examination (ABLE)

3. ...

4. WorkKeys: (to be used at the High Intermediate Basic Education and Adult Secondary Education educational functioning levels only).

C. ...

1. Basic English Skills Test (BEST) Literacy and BEST Plus;

2. ...

3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3066 (December 2005), amended LR 34:

§305. Placement in an Educational Functioning Level

A. Upon administration of an approved assessment, at intake or within a short period thereafter, local programs are to place students at an educational functioning level. Charts developed from the *NRS Implementation Guidelines* are used for determining the appropriate EFL for a student. These charts are included in the instructor manual pertaining to this Part CXVII.

B. Growth can only be shown through the administration of an approved pre-test and post-test or by passing the GED test. A student who passes the GED may be given credit for

completing the High Adult Secondary (ASE) level. This is the only method to show completion of this level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:

§307. Follow-up Assessments

A. ...

1. attended for 60-100 hours based upon test publisher's guidelines for the amount of time needed for a student to show a meaningful gain; or

2. ...

3. has completed an Individualized Prescription of Instruction (IPI) for the area being used for NRS reporting purposes and in accordance with test publisher's guidelines. The subject area (total math, reading or total language) to be used for NRS reporting purposes is the lowest educational functioning level based upon the pre-test scores if multiple areas are assessed. The program decides the skill areas in which to assess the student based on the student's instructional needs and goals.

B. The department's benchmark for the percentage of students who are pre and post-tested is 40 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:

§309. Special Populations

A. Assessments for special populations are administered with appropriate accommodations as specified by the publisher of the approved assessment. Accommodations for the administration of assessments shall be based on copies of the student's IEP or 504 plan.

B. Accommodations for approved assessments will likely differ from accommodations for the GED test. There are four types of disabilities, learning and other cognitive disabilities, attention deficit/hyperactivity disorder, emotional/mental health or physical/chronic health disability, which are applicable to students registered for the GED test. Disabilities must be documented on the appropriate form, which is available from a GED chief examiner. Although a student may receive accommodations for assessments for placement or to measure growth by a local program, this does not guarantee or imply that the same accommodations will be appropriate or provided for the GED test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:

Chapter 5. Adult Education Core Measures

§501. NRS Core and Secondary Measures

A. - A.2.b. ...

3. participation measures of contact hours received and enrollment in instructional programs for special populations or topics (such as family literacy, corrections or workplace literacy).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3067 (December 2005), amended LR 34:

§505. Student Goal Setting for Core Measures

A. Adult learners enter adult education programs for any number of reasons, which are reflective of the students' educational, vocational, and personal goals. The goal setting process occurs at intake and is intended to define the areas to focus instruction and learning. Student goals serve to provide a basis to measure student and program performance, and thus it is imperative that goals be both attainable and measurable.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:

§507. Data Matching

A. - B. ...

C. Upon completion of the data-matching process, LDOL provides the Department of Education with a list of students who achieved the specified outcomes and these outcomes are reported back to local programs. The data matching process specifically tracks those students who set employment as a goal, but also matches all students in the database for the core measures. This process allows programs to know which students met their specified goal(s) and those who have achieved other outcomes while enrolled in the program. These outcomes are to be entered as an achievement in the approved adult education database, not as a goal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:

Chapter 7. Data Reporting

§701. Data Accuracy and Entry

A. ...

Data	Entry Guidelines
Social Security Number or Identifying Number	1. Enter the learner's real Social Security number. 2. Enter the alien identification number if ESL students do not have a Social Security number.
Contact Information	1. Enter as many phone numbers that are available for the student (e.g., home, work, etc.). 2. Enter a complete mailing address including a number, street, apartment (if applicable), town and zip code. 3. Use the learner's parish of residence (not where the program is located).
Enrollment Status	1. Enter the learner's status: enrolled, active, or left. *A learner shall be separated and his/her status changed to left after nonattendance for 90 days according to NRS policies.

Data	Entry Guidelines
Attendance	1. Attendance must be recorded daily on sign-in sheets. It is recommended that attendance be entered on a weekly basis. *Attendance hours are counted for instruction or instructional activities. Instructional activities include classroom instruction, assessment to inform instruction, tutoring or participation in a learning lab. Virtual, on-line or distance education attendance hours must be recorded following NRS guidelines.
Test Scores	1. Enter test results (pre-test or post-test) upon completion of approved assessment.

B. The Louisiana Department of Education requires that local programs submit a designation of distance learner for students enrolled in the adult education program, but participating in state-approved curricula and following a state-approved model for distance education.

1. The student must be designated as a distance education learner if the majority of the student's attendance hours are in distance education.

2. Students must have at least 12 contact hours with the program.

3. Pre-tests and post-tests are to be administered in person using the state assessment policy.

4. Programs will report all required NRS data elements on distance education students in the state approved data management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:

§703. Reporting

A. The Louisiana Department of Education, Division of Family, Career and Technical Education requires that local programs enter data at least monthly during a program year. City or parish supervisors or program directors are responsible for timely entry into the state approved adult education data management system of local program data and ensuring its accuracy. Department of Education staff will review data for errors and contact supervisors or program directors to discuss needed corrections to local program data at least quarterly. Local program data, for the prior month should be entered by the tenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3068 (December 2005), amended LR 34:

§705. State Approved Adult Education Data Management System

A. The Louisiana Department of Education mandates that adult education programs, which it funds, must use the state approved Adult Education Data System. Local programs are responsible for covering the costs of implementing and maintaining the system with a portion of their local grant funds. Staff from the Louisiana Department of Education and staff from the state approved adult education data management system are committed to

improving data quality by providing professional development workshops each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005), amended LR 34:

§707. Resolving Data Analysis Problems and Deviations

A. Upon receipt of data submitted by local programs, the Louisiana Department of Education, Division of Family, Career and Technical Education staff review program data quarterly for errors. It is the responsibility of the local program supervisor or director to conduct the initial review of the data, using the diagnostic features of the state approved adult education data management system and other instructions provided by department staff.

B. Upon receipt of local program data, department staff shall run the diagnostic features of the state approved adult education data management system to search again for common and obvious data errors, such as invalid attendance dates, birthdates, and/or Social Security numbers. Staff further reviews data using other searches to determine if additional data analysis problems and deviations exist. Department staff shall send a report to local program supervisors or directors detailing any data analysis problems or deviations. It is the responsibility of local program supervisors and directors to correct any data analysis problems or deviations within two weeks of notification of such problems by department staff.

C. Data analysis problems or deviations must be corrected to accurately reflect student progress, evaluate program success and determine future funding. Local program supervisors or directors must sign the data extract each quarter upon acceptance of data by department staff. The signed program extract confirms that the local program supervisor or director states that the data is correct to the best of his/her knowledge, the local program has adhered to Department of Education data guidelines, and data has been reviewed for errors. The data reflected in the signed extract is used to determine subsequent year funding and serves as the record of program performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, Adult Education Services, LR 31:3069 (December 2005), amended LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., February 8, 2008, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 120—Adult Education Data Quality and Procedures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated costs to implement Bulletin 120—Adult Education Data Quality and Procedures will be approximately \$1000, which includes printing costs so that the bulletin may be distributed to local adult education programs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits that will directly affect persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Louisiana Adult Education Data Quality and Procedures will assist local adult education programs in meeting the reporting requirements of the National Reporting System (NRS) for Adult Education. The aforementioned framework is designed to assist local adult education programs with the processes of gathering student data, inputting data into the state approved adult education database system, reporting data on program performance and reviewing data to plan for and facilitate program improvement in an effort to strengthen the skills of the state's workforce.

Beth Scioneaux
Deputy Superintendent
0712#061

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School
Administrators
(LAC 28: CXV.501, 1117, 1307, 1309, and 2321)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §501.Criminal Background Checks and Staff Misconduct, §1117.Child Welfare and Attendance, §1307.Reasons for Expulsions,

§1309.Guidelines for Expulsions, and §2321.Carnegie Credit for Middle School Students. The revisions to these policies in *Bulletin 741—Louisiana Handbook for School Administrators* were made for the following reasons:

§501.F—The addition of this Paragraph is required by HB 969 (R.S. 14:81.4) from the 2007 legislative session.

§1117.F—The addition of this Paragraph is required by SB 169 (Children's Code Arts. 791.1, et seq.) from the 2004 legislative session.

§1307.A.2, §1309—The revisions to these Sections are required by SB 265 (R.S. 17:416) from the 2007 legislative session.

§2321—The revisions to this Section are needed to add Introduction to Business Computer Application to the list of high school courses that middle school students can take and to clarify language.

Title 28 EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§501. Criminal Background Checks and Staff Misconduct

A. - E.6.b. ...

F. Sexual conduct (including sexual intercourse and any lewd or lascivious behavior) between an educator (including any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide) and a student, who is under the age of 19 and who is a student at the school where the educator is assigned, employed, or working at the time of the offense, is prohibited.

1. Consent of the student or lack of knowledge of the student's age is not a defense.

2. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual contact between an educator and a student has occurred or is occurring shall immediately report such conduct to a local or state law enforcement agency.

3. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such person shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.

4. No immunity shall extend to any person who makes a report known to be false or with reckless disregard for the truth of the report, but in any action to establish damages against a defendant who made a false report, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew that the report was false or that the report was filed with reckless disregard for the truth of the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:15; R.S. 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:

Chapter 11. Student Services

§1117. Child Welfare and Attendance

A. - E. ...

F. In those districts participating in an interagency agreement to operate a truancy and assessment service center and to the extent specified in said agreement, school

boards and their systems in general will assist child welfare and attendance officers in creating student background data, including attendance records, unexcused absences, conduct violations, discipline records, report cards, and transcripts as permitted by law and families in need of services personnel will work in partnership with the child welfare and attendance officers to monitor client progress, file all petitions in the cases of noncompliance of the plan for court appearance, and coordinate other services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 34:

Chapter 13. Discipline

§1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §1103, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. - 4. ...

5. any student in grades six and up found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2).

6. any student older than eleven and in grades six and up, carrying or possessing a knife the blade of which equals or exceeds two inches in length.

B. School officials shall have total discretion and shall exercise such discretion in imposing on a pupil any disciplinary actions authorized by this Section for possession by a student of a firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of the student's intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school approved cocurricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law that has been obtained directly or pursuant to a valid prescription or order from a licensed physician. However, such student shall carry evidence of that prescription or physician's order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:

§1309. Guidelines for Expulsions

A. ...

B. No student who has been expelled pursuant to the provisions of R.S. 17:416(C)(2) shall be readmitted to a public school in the city, parish, or other local school system in which he or she was expelled, prior to the completion of the specified period of expulsion, unless he or she has complied with the provisions of R.S. 17:416(C)(2) pertaining to appropriate rehabilitation and counseling related to the reason(s) for expulsion.

C. ...

D. Any student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city or parish city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student suspensions and expulsions. As soon thereafter as possible, the principal or his designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:

Chapter 23. Curriculum and Instruction

§2321. Carnegie Credit for Middle School Students

A. Students in the middle grades are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, English, social studies, foreign language, keyboarding/keyboarding applications, Introduction to Business Computer Applications, or computer/technology literacy.

B. - D. ...

E. Students who are repeating the eighth grade because they have scored *unsatisfactory* on the mathematics and/or English language arts components of LEAP shall not take or receive Carnegie credit for any high school courses in a content area in which they scored *unsatisfactory* on the eighth grade LEAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 34:

Interested persons may submit written comments until 4:30 p.m., February 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of changes requires no cost or savings to state or local governmental units. The revisions to these policies in Bulletin 741: Louisiana Handbook for School Administrators will accomplish the following:

Section 501.F – This section provides a definition of sexual misconduct by a school employee.

Section 1117.F – This section provides for the assistance of school systems in obtaining background data on students for truancy and assessment centers.

Section 1307.A.2, Revisions to this section provide additional guidance on expulsion of students carrying knives or firearms.

Section 1309 – Revisions to this section relate to readmitting a student to school following an expulsion.

Section 2321 – The revisions to this section are needed to add Introduction to Business Computer Application to the list of high school courses that middle school students can take and to clarify language.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0712#060

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook—Supplies vs. Equipment (LAC 28:XLI.1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*: §1107. Definition—Supplies vs. Equipment. This action establishes a higher capitalization threshold for local school districts. The higher capitalization threshold will aid the districts in management of their assets that must be inventoried while minimally impacting the dollar value of those assets tracked. The capitalization threshold will be increased from \$1,000 per item to \$5,000 per item. The new threshold is consistent with GFOA recommendations for capitalization threshold as well as federal requirements in EDGAR.

Title 28

EDUCATION

Part XLI. Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook Chapter 11. Assets, Liability, and Equity §1107. Definition—Supplies vs. Equipment

A. An LEA can take two basic approaches to distinguish between supplies and equipment in the decision making situations: adopt a predetermined list of items, classifying each entry as either a supply or an item of equipment, or adopt a set of criteria to be used in making its own classification of supply and equipment items.

1. List of Items—At one time, the Federal Accounting Handbook contained lists of both supplies and equipment. Such lists can never be comprehensive or exhaustive, and quickly become outdated.

2. Set of Criteria—An item must be considered a supply if it does not meet all the stated equipment criteria listed below.

a. It can be expected to serve its principal purpose for at least one year.

b. It is nonexpendable; that is, if damaged or worn out, it can be repaired without being replaced.

c. It does not lose its identity through fabrication or incorporation into a different or more complex unit.

d. It is equal to or greater than \$5,000 per unit cost in value.

NOTE: The unit cost of \$5,000 does not apply to any program funded with 8g monies.

3. Food and computer software must always be considered supplies.

4. School districts maintain rigorous accountability for their property whether it is capitalized or not. For

accountability and internal control purposes, many items of property that do not meet the districts' capitalization threshold must be inventoried. Thus, the Department of Education recommends maintaining inventory and tracking items that do not meet the equipment criteria if needed for insurance purposes and/or the item has "street value." For instance, districts might inventory DVDs and computers for internal control purposes but not capitalize them due to their low cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17(2)(e).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:483 (March 2000), amended LR 27:1684 (October 2001), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earnings and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit comments until 4:30 p.m., February 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook Supplies vs. Equipment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action establishes a higher capitalization threshold for local school districts. The higher capitalization threshold will aid the districts in management of their assets that must be inventoried while minimally impacting the dollar value of those

- assets tracked. The threshold will be increased from \$1,000 per item to \$5,000 per item.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no impact on competition and employment.

Beth Scioneaux
Deputy Superintendent
0712#055

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Instructional Staff (LAC 28:LXXIX.303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators: §303. Instructional Staff*. The revision will accomplish the following.

1. Allow teachers with master's degrees and ten or more years of experience teaching at the college level or in a K-12 school to forego the required 12 college hours of Knowledge of the Learner and the Learning Environment classes. The teachers must meet all other requirements.
2. Remove the stipulation that only secondary teachers could teach in areas other than their major field for less than half the school day. The teachers must have earned at least 12 semester hours in the content area.

These revisions were requested by Nonpublic School Commission to facilitate obtaining experienced and qualified teachers.

**Title 28
EDUCATION**

**Part LXXIX. Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators
Chapter 3. Certification of Personnel
§303. Instructional Staff**

- A. - A.3. ...
- B. A teacher may teach in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in trade and industrial education classes.) These teachers must hold a degree from a regionally accredited institution and have earned 12 semester hours of professional education courses.
 1. A graduate of a foreign university or college, notwithstanding his/her major in college, may teach a foreign language if that language is his/her native tongue. The teacher must also earn 12 semester hours of professional education courses within a three year period.
- C. - I.1. ...
- J. A teacher may be considered qualified without having the 12 hours of Knowledge of the Learner and the Learning Environment courses provided the following stipulations have been met:

1. the teacher has documented experience at one of the following levels:

a. ten years teaching experience at the collegiate level as an assistant professor, associate professor, or full professor; or

b. ten years teaching experience in an approved elementary, middle, or secondary school; and,

2. the teacher has the content knowledge qualifications required in §303A.2.b or §303.B; or,

3. the teacher has a master's degree in the teaching area; and,

4. the teacher has taught for a probationary period of at least one year with a satisfactory evaluation at the school seeking employment of the teacher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006), LR 32:2237 (December 2006), LR 34:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule affect the functioning of the family? No

4. Will the proposed Rule affect family earnings and family budget? No

5. Will the proposed Rule affect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit written comments until 4:30 p.m., February 8, 2008, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nonpublic Bulletin 741—Louisiana Handbook for Nonpublic School Administrators—Instructional Staff

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of changes requires no cost or savings to state or local governmental units. The revision to Section 303 in Bulletin 741: Louisiana Handbook for Nonpublic School Administrators will accomplish the following:

- allow teachers with master's degrees and ten or more years of experience teaching at the college level or in a

K-12 school to forego the required 12 college hours of Knowledge of the Learner and the Learning Environment classes. The teachers must meet all other requirements.

- remove the stipulation that only secondary teachers could teach in areas other than their major field for less than half the school day. The teachers must have earned at least 12 semester hours in the content area.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
0712#059

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the
Student Financial Assistance Commission
(LAC 28:V.203, 215, 221, 223, 241, 245, and 247)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its bylaws (R.S. 17:3021-3025 and R.S. 17:3048.1).

The proposed changes will change the composition of the membership of the committee and the method of selection of the members.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (AC0892NI)

Title 28

EDUCATION

Part V. Student Financial Assistance—Higher

Education Loan Program

Chapter 2. Bylaws of the Advisory Committee to the Student Financial Assistance Commission

Subchapter A. Purpose and Authority

§203. Authority of the Committee

A. The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter B. Meetings

§215. Compensation

A. Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations if their respective school does not reimburse them for their

expenses. No other compensation is authorized. Members may decline reimbursement for expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter C. Membership and Officers of the Committee

§221. Membership

A.1. The committee shall be composed of eight voting members, who shall be the financial aid director or his/her designee representing the Louisiana State University System, the Southern University System, the University of Louisiana System, the Louisiana Community and Technical College System, the Professional Schools, the Louisiana Association of Independent Colleges and Universities, and proprietary schools selected by the Louisiana Career College Association; and a student member.

2. The executive director of the LOSFA shall be an ex officio, nonvoting member of the committee.

3. The president or his/her designee of the Louisiana Student Financial Aid Administrators shall be a nonvoting member of the committee.

B. Rotation of Members. Voting members shall rotate according to the following schedule.

1. Louisiana State University System
 - a. University of New Orleans
 - b. Louisiana State University at Alexandria
 - c. Louisiana State University at Shreveport
 - d. Louisiana State University at Eunice
 - e. Louisiana State University at Baton Rouge
2. Southern University System
 - a. Southern University at Baton Rouge. The initial term shall be for one year.
 - b. Southern University at New Orleans
 - c. Southern University at Shreveport
3. University of Louisiana System
 - a. University of Louisiana at Monroe. The initial term shall be for one year.
 - b. Louisiana Tech University
 - c. McNeese State University
 - d. Nicholls State University
 - e. Northwestern State University
 - f. Southeastern State University
 - g. University of Louisiana at Lafayette
 - h. Grambling State University
4. Louisiana Community and Technical College System
 - a. Delgado Community College. The initial term shall be for one year.
 - b. Baton Rouge Community College
 - c. Bossier Parish Community College
 - d. Delta Community College
 - e. L.E. Fletcher Community and Technical College
 - f. River Parishes Community College
 - g. South Louisiana Community College
 - h. SOWELA Technical Community College
 - i. Louisiana Technical College
5. Professional Schools
 - a. Louisiana State University Health Sciences Center at New Orleans

b. Louisiana State University Health Sciences Center at Shreveport

c. Southern University Law Center

d. Tulane Medical and Law School

6. Louisiana Association of Independent Colleges and Universities

a. Centenary College

b. Dillard University

c. Louisiana College

d. Loyola University

e. New Orleans Baptist Theological Seminary

f. Our Lady of Holy Cross College

g. Our Lady of the Lake College

h. St. Joseph Seminary College

i. Tulane University

j. Xavier University

7. Proprietary Schools

a. The Louisiana Career College Association shall rotate membership among the proprietary schools.

b. The rotation will ensure that all schools are offered membership before the rotation repeats.

8. Student

a. A student member shall be selected by the Financial Aid Officer who is a member of the Advisory Committee beginning with the member from the Louisiana State University System and rotating in the order of members listed above.

b. Student members shall serve one year terms and may not serve two consecutive terms.

c. The student selected should be an employee of the financial aid office, have financial aid experience or otherwise have an interest in financial aid.

C. Term

1. The term of voting members shall be for two years except as indicated in §221.B above. Members may not serve two consecutive terms, except as indicated in §221.E.2 below.

2. Terms shall be staggered.

3. Terms shall begin on October 1 of each year.

D. Notification of Membership

1. Except for the 2007-2008 academic year, LOSFA shall send a notice to the financial aid directors of the schools who are eligible to be members of the advisory committee no later than September 1 of each year. In the notice, LOSFA shall request confirmation of that financial aid director's willingness to serve as a member and the name of the financial aid director's designee, if there is one.

2. The financial aid director must submit the confirmation of membership by September 30 of that same year.

E. Replacements

1. If a financial aid director declines to participate or does not submit a timely confirmation, the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director.

2. If a financial aid director is unable to complete his/her term for any reason, the financial aid director from the next school in the rotation shall be eligible for membership and LOSFA shall so notify the appropriate financial aid director. The replacement member shall complete the rest of the term and shall be eligible for membership for the next two year term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 33:1339 (July 2007), LR 34:

§223. Chairman and Vice-Chairman

A. The committee chairman and vice chairman shall be selected annually by vote of the members of the advisory committee, from among the members of the committee. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:435 (March 1998), amended LR 34:

Subchapter D. Business Rules

§241. Meeting Attendance

A. Members unable to continue their service on the committee shall so notify the chairman and request that a replacement be named in accordance with §221 of these bylaws. Members who fail to regularly attend meetings without just cause, may be removed from membership in accordance with §221 of these bylaws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

Subchapter E. Approval and Amendment of Bylaws

§245. Approval of Bylaws

A. To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of LOSFA. Bylaws become effective upon approval by the commission and publication as a final rule in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

§247. Amendments to Bylaws

A. The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the committee. Amendment or repeal of the bylaws becomes effective upon approval by the commission and publication as an emergency rule and/or a final rule in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:436 (March 1998), amended LR 34:

Interested persons may submit written comments on the proposed changes (SG0892NI) until 4:30 p.m., January 10, 2008, to Melanie Amrhein, Executive Director, Office of

Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bylaws of the Advisory Committee to the
Student Financial Assistance Commission**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no implementation costs or savings to state or local governmental units due to the proposed changes. The proposed change reduces the Advisory Committee membership to 8 voting members, changes the method in which committee members are selected, and changes the method in which the committee's chairman and vice-chairman are selected. These changes will have a minimal impact on costs since the only compensation allowed for committee members is reimbursement of travel expenses, the number of members will be reduced and members will be allowed to decline reimbursement.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Revenue collections of state and local governments will not be affected by the proposed changes.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0712#009

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

Ambient Air Standards for Particulate Matter
(LAC 33:III.701, 703, and 711)(AQ288)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.701, 703, and 711 (Log #AQ288).

In 2006, the Environmental Protection Agency revised the National Ambient Air Quality Standards (NAAQS) for particulate matter. The revised NAAQS address two categories of particle pollution: fine particles (PM_{2.5}), which are 2.5 micrometers in diameter and smaller; and inhalable coarse particles (PM₁₀), which are smaller than 10 micrometers. This Rule updates the Louisiana air quality regulations to include the revised particle standards. The EPA strengthened the 24-hour PM_{2.5} standard from the 1997

standard of 65 micrograms per cubic meter to 35 micrograms per cubic meter, and retained the current annual PM_{2.5} standard of 15 micrograms per cubic meter. For inhalable coarse particles, EPA retained the existing national 24-hour PM₁₀ standard of 150 micrograms per cubic meter and revoked the annual PM₁₀ standard. The basis and rationale for this Rule are to update the Louisiana air quality regulations to include the revised NAAQS for particulate matter to ensure continued protection of the environment and human health and welfare. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 7. Ambient Air Quality

§701. Purpose

A. ...

B. Particulate Matter. The purpose of this Chapter is to maintain concentrations of particulate matter in the ambient air at levels which will not cause damage or injury to plant or animal life. In addition to health considerations, attainment of the standards will result in economic and aesthetic benefits such as increased visibility and reduced soiling and corrosion.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§703. Scope

A. This Chapter is applicable to all sources of particulate matter, sulfur dioxide, carbon monoxide, atmospheric oxidants, nitrogen oxides, and lead.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	35 µg/m ³	24-hour
Sulfur Dioxide (SO ₂)	80 µg/m ³	or 0.03 ppm (Annual arithmetic mean)
	365 µg/m ³	or 0.14 ppm (Maximum 24-hour concentration not to be exceeded more than once per year)

Air Contaminant	Maximum Permissible Concentration	
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. The contribution of any contaminant by a single source property shall be measured as the difference between the upwind level and the downwind level for the property, using methods approved by the administrative authority, or by the use of suitable engineering techniques such as source dispersion calculations.

2. National primary ambient air quality standards define levels of air quality that the Administrator of the Environmental Protection Agency judges to be necessary, with an adequate margin of safety, to protect the public health.

B. Table 1a. Secondary Ambient Air Quality Standards

Air Contaminant	Maximum Permissible Concentration	
PM ₁₀	150 µg/m ³	(Maximum 24-hour concentration not to be exceeded more than once per year)
Sulfur Dioxide (SO ₂)	1,300 µg/m ³	(Maximum 3-hour concentration not to be exceeded more than once per year)
PM _{2.5}	15.0 µg/m ³	(Annual arithmetic mean)
	35 µg/m ³	24-hour
Carbon Monoxide (CO)	10,000 µg/m ³	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 µg/m ³	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.08 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm, as determined in accordance with 40 CFR 50, Appendix I.

Air Contaminant	Maximum Permissible Concentration	
Nitrogen Dioxide (NO ₂)	100 µg/m ³	(0.05 ppm) (Annual arithmetic mean)
Lead	1.5 µg/m ³	(Maximum arithmetic mean averaged over a calendar quarter)

1. The contribution of any contaminant by a single source property shall be measured as the difference between the upwind level and the downwind level for the property, using methods approved by the administrative authority, or by the use of suitable engineering techniques such as source-dispersion calculations.

2. National secondary ambient air quality standards define levels of air quality that the Administrator of the Environmental Protection Agency judges to be necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

C. Table 2. Ambient Air—Methods of Contaminant Measurement

Air Contaminant	Sampling Interval	Analytical Method
PM ₁₀	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix J.
PM _{2.5}	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix L.
Sulfur Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix A.
	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 53, Subpart B.
Total Oxidants	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix D, and Part 53, Subpart B.
Carbon Monoxide	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, Appendix C, and Part 53, Subpart B.
Nitrogen Dioxide	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix F.
Lead	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, Appendix G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR

14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1602 (September 2006), LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ288. Such comments must be received no later than January 31, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ288. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ambient Air Standards for Particulate
Matter**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units by the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state or local governmental units is expected as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or significant economic benefits to directly affected persons or non-governmental groups by the proposed rule. Although the rule updates the Louisiana Air Quality Regulations to reflect a strengthened EPA particle standard, the regulated community should not be impacted since all applicable monitoring data currently indicates compliance with the proposed standard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no estimated effect on competition or employment by the proposed rule.

Herman Robinson, CPM
Executive Counsel
0712#034

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

**National Source Tracking System Reporting Dates
(LAC 33:XV.493)(RP047ft)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.493 (Log #RP047ft).

This proposed Rule is identical to federal regulations found in 10 CFR 20.2207, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state radiation regulations to coincide with a change in the federal regulations. As part of the National Source Tracking System (NSTS), reporting requirements for nationally tracked sources are listed in 10 CFR 20.2207. This Rule changes the compliance dates for reporting transactions involving Category 1 and Category 2 sources from November 15, 2007 and November 30, 2007, respectively, both to January 31, 2009. The National Source Tracking System rule requires licensees to report information on the manufacture, transfer, receipt, disassembly, and disposal of nationally tracked sources. This information will be entered into a computerized data base. The compliance dates for licensees to report initial source inventories was November 15, 2007, for Category 1 sources and November 30, 2007, for Category 2 sources. These were also the dates to start reporting source transactions for entry into the system. The NRC anticipated that system development and testing would be complete and the National Source Tracking System would be operational by November 2007. However, system development has taken longer than anticipated, and the system will not be ready to accept data by November 2007. Therefore, the NRC is revising the compliance dates for which reporting is to start. The requirements for both Category 1 and 2 nationally tracked sources will now be implemented by January 31, 2009. This means that by this date any licensee that possesses a Category 1 or 2 level source must have reported its initial inventory and must begin reporting all transactions involving Category 1 and 2 sources to the National Source Tracking System. Requirements regarding compatibility are published under the Agreement State program. This change to the state regulations is needed to comply with the program. The basis and rationale for this Rule are to mirror

the federal regulations and maintain an adequate Agreement State program. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

**Chapter 4. Standards for Protection against
Radiation**

Subchapter J. Reports

**§493. Reports of Transactions Involving Nationally
Tracked Sources**

A. - H. ...

I. Each licensee who possesses Category 1 nationally tracked sources shall report the initial inventory of the licensee's Category 1 nationally tracked sources to the national source tracking system by January 31, 2009. Each licensee who possesses Category 2 nationally tracked sources shall report the initial inventory of the licensee's Category 2 nationally tracked sources to the national source tracking system by January 31, 2009. The information may be submitted by using any of the methods specified in Paragraphs G.1-4 of this Section. The initial inventory report must include the following information:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2361 (November 2007), amended LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP047ft. Such comments must be received no later than January 24, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP047ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0712#033

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Solid Waste Exemptions, Containers, and Buffer Zones
(LAC 33:VII.301, 503, 508, 709, 717, and 719)(SW046)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.301, 503, 508, 709, 717, and 719 (Log #SW046).

This Rule clarifies that a container storing solid waste shall prevent leakage into or out of the container. The Rule establishes a 50-foot buffer zone requirement for non-processing transfer stations transferring nonputrescible solid waste, such as construction and/or demolition waste. It also clarifies that all adjoining landowners must sign an affidavit allowing a reduction in a facility's buffer zone requirement. The Rule adds two exemptions from the definition of solid waste that have been present in the Environmental Quality Act for quite some time, but never appeared in the regulations. The exemptions regard automotive fluff and uncontaminated scrap metal materials. This Rule is necessary to clarify language regarding container storage of solid waste and requests for reductions in buffer zones for solid waste management facilities, and to make the buffer zone requirements consistent for facilities handling the same waste stream. Allowing non-processing transfer stations transferring nonputrescible solid waste to have smaller buffer zones will make the requirements for those facilities consistent with other solid waste management facilities handling nonputrescible waste that currently have smaller buffer zones. Adding the exemption language from the Act will make the regulations consistent with the law. The basis and rationale for this proposed Rule are to clarify and provide consistency in the solid waste regulations. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 3. Scope and Mandatory Provisions of the Program

§301. Exempted Waste

A. - A.2.d.iv. ...

e. source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

f. compost produced by an individual for his own beneficial use, as provided in R.S. 30:2416(G);

g. uncontaminated scrap metal materials that are purchased for resale to be recycled or reused and are not destined for disposal; and

h. automotive fluff that results from the shredding of automobiles by a scrap metal recycling facility authorized under the laws of the state of Louisiana and from which metals have been recovered to the maximum extent practicable by the scrap metal recycling facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), LR 28:780 (April 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October, 2007), LR 33:2364 (November 2007), LR 34:

Chapter 5. Solid Waste Management System

Subchapter A. General Standards for Nonpermitted Facilities

[Formerly Chapter 7.Subchapter A]

§503. Standards Governing Solid Waste Accumulation and Storage

[Formerly §703]

A. Solid Waste Accumulation

1. ...

2. Containers used for solid waste shall:

a. prevent access by rodents and insects;

b. minimize the escape of odors to the maximum extent possible; and

c. prevent leakage into or out of the container.

A.3. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1033 (June 2007), LR 34:

§508. Standards Governing Non-Processing Transfer Stations for Solid Waste

A. - A.4. ...

B. New facilities in which construction has commenced after June 20, 2007, shall comply with a buffer zone requirement of not less than 200 feet between the facility and the property line. Facilities transferring only nonputrescible waste shall comply with a buffer zone requirement of not less than 50 feet between the facility and the property line. A reduction in the buffer zone requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the 200-foot or 50-foot buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes in which the adjoining landowners' properties are located. The affidavit shall be maintained with the records of the facility. No storage of solid waste shall occur within a facility's buffer zone.

C. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1034 (June 2007), amended LR 33:2142 (October 2007), LR 34:

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§709. Standards Governing Type I and II Solid Waste Disposal Facilities [Formerly some of the provisions in Subsections A and B existed in §521.]

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007), LR 34:

Subchapter B. Solid Waste Processors

§717. Standards Governing All Type I-A and II-A Solid Waste Processors

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR

27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:

Subchapter C. Minor Processing and Disposal Facilities **§719. Standards Governing All Type III Processing and Disposal Facilities**

[Formerly some of the provisions in Subsections A, B, and E existed in §521.]

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. A reduction in this requirement shall be allowed only with the permission, in the form of a notarized affidavit, of all adjoining landowners. A copy of the notarized affidavit waiving the buffer zone requirement shall be entered in the mortgage and conveyance records of the parish or parishes for the adjoining landowners' properties. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

B.3.b. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:2148 (October 2007), LR 34:

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW046. Such comments must be received no later than January 31, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the

DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW046. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Solid Waste Exemptions, Containers, and Buffer Zones

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no cost or savings to the state or local governmental units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase or decrease in revenues of state or local governmental units as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Landowners that are neighbors to certain solid waste management facilities, and private and public owners and operators of non-processing transfer stations transferring nonputrescible solid waste, will benefit from the proposed rule. Less land will need to be purchased to comply with a 50-foot buffer zone, resulting in a savings in cost for the facility and less property loss for adjoining landowners. A provision that has been problematic for the department because it could be read as requiring only one adjoining landowner to sign an affidavit in order for a solid waste management facility to be allowed a decreased buffer zone will be clarified.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment as a result of this proposed rule.

Herman Robinson, CPM
Executive Counsel
0712#032

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Judge Guy P. Holdridge
Chairman

NOTICE OF INTENT

Office of the Governor Board of Examiners of Shorthand Reporters

Fees (LAC 46:XXI.901)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters, proposes to adopt changes made to the fees Rule.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 9. Fees

§901. Fees

A. The following fees shall be paid to the board.

1. The fee to be paid for the issuance of a reciprocal certificate of registration without board examination is \$90 with one stamp, \$105 with two stamps, and \$120 with three stamps.

2. The fee to be paid upon the issuance and renewal of the certificate of registration is \$90 with one stamp, \$105 with two stamps, and \$120 with three stamps.

3. The fee to be paid for the purchase of a list of names and addresses of current reporters is \$25.

4. The fee to be paid for the reinstatement of a suspended or revoked certificate is the payment of all delinquent fees, plus \$15.

5. The fee to be paid for the skills portion of the examination is \$125 and the fee to be paid for the written knowledge portion of the examination is \$75.

6. The fee to be paid for the qualifying test of Q and A at 225 wpm is \$50.

7. The fee to be paid for an NSF check issued to the board is \$15.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:680 (October 1983), amended LR 10:279 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:1541 (December 1993), amended by the Office of the Governor, Board of Examiners of Shorthand Reporters, LR 34:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Interested persons may submit written comments on the proposed changes until 4 p.m., January 10, 2008, to Judge Guy P. Holdridge, Chairman, Louisiana Board of Examiners of Certified Shorthand Reporters, P.O. Box 3257, Baton Rouge, LA 70821-3257.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than those one-time costs directly associated with the publication and dissemination of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be an increase of revenue collected of up to \$5,750 dependent upon the number of examinees who will apply for the full exam. On the other hand, the board may

experience a decrease in revenue due to the change in the stamp fee. The maximum potential revenue loss is approximately \$45,000 annually but will ultimately depend upon the number of stamps requested at the time of license issuance or renewal. Therefore, this rule change may reduce revenue to the board by approximately 40,000 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will result in an increase in the exam fee of up to \$115 per person taking the full exam and an increase in the stamp fee for issuance or renewal of up to \$45 per person depending upon the number of stamps requested.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Guy P. Holdridge
Chairman
0712#051

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor

Capital Area Ground Water Conservation Commission

Pumpage Fees (LAC 56:V.1103)

Notice is hereby given that the Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the Parishes of East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, plan to increase the pumping charges for ground water users. The board has determined that this increase is necessary to meet the increased costs for district operations. This action is in accordance with R.S. 38:3076(14) and 38:3079.

Title 56

PUBLIC WORKS

Part V. Capital Area Ground Water Conservation Commission

Chapter 11. Determination of and Payment of Accounts

§1103. Pumpage Fee

A. The pumping charges for ground water users shall be \$4 per million gallons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 20, 1975, amended LR 10:592 (August 1984), LR 34:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or

6. the family's ability or that of the local government to perform the function as contained in the proposed rules

A public hearing will be held on January 29, 2008 at 1 p.m. in the commission office, 3535 South Sherwood Forest Blvd., Suite 129, Baton Rouge, LA. Oral comments will be accepted at that meeting. The commission will accept written comments until 11:30 a.m. January 29, 2008 if delivered or mailed to the office listed above.

Don C. Dial
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pumpage Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There would be minimal implementation cost to some local governmental units. Due to the .50 increase per million gallons of ground water pumped, the total additional cost to these local entities would be roughly half of the estimated increase.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The board will receive an estimated increase of \$7,875 in the period between April 1, 2008 and June 30, 2008 and an estimated \$31,500 increase in the 2008-2009 fiscal year and each fiscal year thereafter.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The 65 users subject to the current fee of \$3.50 per million gallons, public supply and private industry, will be charged .50 more per million gallons of ground water pumped (approximately 63 billion gallons per year).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that this rate increase will curtail any water pumping activity of public supply or industrial users or affect the rates charged by suppliers for water supplied or amounts charged by industry users for their products.

Don C. Dial
Director
0712#067

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Financial Institutions**

Louisiana Trust Company
(LAC 10:I.1501 and 1503)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, as provided under R.S. 6:126(A), and as authorized by R.S. 6:576; 6:592; and 6:613, the Commissioner of the Office of Financial Institutions gives notice of intent to promulgate a Rule to provide for the administration and regulatory oversight of the Louisiana Trust Company Statutes (R.S. 6:571, et seq.). The proposed Rule establishes fees and assessments to cover anticipated regulatory costs.

There is no family impact associated with the proposed Rule, as provided for in R.S. 49:972

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC
Part I. Financial Institutions

Chapter 15. Louisiana Trust Company

§1501. General Provisions

A. The Depository Institutions' Section of the Louisiana Office of Financial Institutions ("OFI") is funded entirely through assessments and fees levied on state-chartered financial institutions for services rendered. All fees detailed in this rule are nonrefundable and must be paid at the time the application is filed with this office. An applicant may submit a request that a reduced fee be charged for the simultaneous filing of similar multiple applications other than de novo applications. This request will not be approved for applications that are not expected to be consummated within 12 months of the filing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:

§1503. Fees and Assessments

A. Pursuant to the authority granted under R.S. 6:121; 6:576; 6:592; and 6:613, the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the Louisiana Trust Company Law, R.S. 6:571 et seq.

Description	Fee
A. Application for a de novo public trust company, or the merger or consolidation of public trust companies.	\$10,000
B. The conversion from a national or federally-chartered trust company to a state-chartered public trust company.	\$1,500
C. Application for a Louisiana trust company to establish a trust office or trust representative office.	Standard Form: \$1,000 Short Form: \$250
D. Application to form a de novo private trust company	\$5,000
E. Application for a conversion or merger of a state-chartered trust company into a federally chartered depository institution or a federal trust company.	\$1,500
F. Semi-annual assessment for each public trust company domiciled in Louisiana to be assessed no later than June 30th and December 31st.	\$2,500
G. Semi-annual assessment for each private trust company domiciled in Louisiana to be assessed no later than June 30th and December 31st.	\$1,000
H. Examination fee for each trust company domiciled in Louisiana. Fee per examiner.	\$50 per hour
I. Review of a restatement and/or amendment to the Articles of Incorporation of a state-chartered Louisiana trust company.	\$250
J. Application by a state-chartered trust company to establish or acquire a subsidiary.	\$500
K. Annual certification for each private trust company	\$500
L. The conversion from a private trust company to a public trust company.	\$5,000

Description	Fee
M. Examination fee for each out-of-state branch, administrative office, trust production office, or representative office of any trust company domiciled in Louisiana.	Any fees assessed pursuant to this rule plus any amounts assessed by the host state regulator for participating in the examination of the Louisiana entity.
N. Examination fee for each branch, administrative office, or representative office of any out-of-state trust company operating in Louisiana in the absence of a sharing agreement between OFI and the host state that establishes fees for examinations and other administrative cost. This fee shall be billed to the primary regulator of the out-of-state entity being examined, and due upon receipt of the OFI invoice.	\$50/hour per examiner plus the actual expenses incurred by this office to conduct or assist in conducting such examinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121; 6:576; 6:592; and 6:613.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 34:

All interested parties are invited to submit written comments on this proposed Rule no later than 4:30 p.m., February 20, 2008, by mail or hand-delivery to John Fields, Deputy Chief Examiner, at the Office of Financial Institutions, 8660 United Plaza Blvd, 2nd Floor, Baton Rouge, LA 70809.

Please note that any interested persons seeking to request a public hearing regarding this proposed Rule must submit their request to this Office within 20 days of the publication of this Notice of Intent in accordance with R.S. 49:953(A)(2)(a).

John Ducrest, CPA
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Trust Company

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no net implementation costs to state or local governmental units associated with this proposal. Current administrative costs will be reallocated to include the supervision and regulation of the activities associated with state-chartered trust companies operating in Louisiana as provided under LSA-R.S. 6:571 et seq. Administrative costs associated with performing these functions will be funded by assessments and fees collected from the trust companies. Since OFI operates on an actual cost basis, there is no net change in expenditures to OFI since any reductions in expenditures for other regulatory areas as a result of the reallocation of staff to administer and regulate trust company activities will result in a reduction of assessments for depository institutions. In accordance with LAC 10:303(H), any amounts collected in excess of actual expenditures associated with depository institutions, the OFI shall credit or refund the collected fees on a pro-rata basis to the affected institutions.

The Louisiana trust company statutes grant the Commissioner of Financial Institutions the authority to promulgate rules necessary to establish a reasonable fee

schedule to fund the cost of administration and regulatory oversight. The proposed rule establishes a fee schedule for applications and examinations associated with permissible trust company activities in Louisiana

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no net impact on the revenue collections of state or local governmental units. Any fee income will be utilized to cover anticipated administrative and examination costs to supervise and regulate trust company activities in Louisiana. We do not anticipate a significant volume of trust company activity at this time; therefore, we do not anticipate a significant increase in administrative costs to supervise the area.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities seeking to conduct trust company activities in Louisiana will be required to pay fees established by this proposed rule for applications and examinations. Individuals and businesses could gain access to additional legal alternatives to meeting estate planning and asset management goals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to have any significant impact on competition; however, any increase in trust company activity in Louisiana could result in the creation of additional jobs in order to properly staff new trust companies that may be created in Louisiana.

John Ducrest, CPA
Commissioner
0712#081

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor

Recreational and Used Motor Vehicle Commission

Recreational Products Trade Show (LAC 46:V.Chapter 30)

In accordance with the provisions of the administrative Procedure Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 4-C, the Office of the Governor, Recreational and Used Motor Vehicle Commission, notice is hereby given that the Recreational and Used Motor Vehicle Commission proposes to repeal current rules and regulations governing Chapter 36 and proposes to adopt rules and regulations governing Chapter 30.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Recreational and Used Motor Vehicles

Chapter 30. Recreational Products Trade Show;

Definitions, License Fees and

Applications; Violations and Regulation

§3001. Definitions

Display Permit—a temporary license issued to a nonresident exhibitor, to display recreational products at a trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

Local Trade Show—a trade show in which the promoter's initial invitation is limited to Louisiana-licensed dealers within a 30-mile radius around the show location.

Nonresident Exhibitor—a nonresident dealer or manufacturer of recreational products who holds a current dealer or manufacturer license in another state and whose Louisiana business is limited to participation in trade shows or expositions in this state.

Promoter—any person, firm, association, corporation, partnership, limited liability company or trust, who alone or with others assumes the financial responsibility of a recreational products trade show or exposition in which recreational products are displayed by licensed dealers, manufacturers or distributors, or exhibitors as provided herein.

Recreational Products—any new or used recreational vehicle, motorcycle, ATV, or marine product.

Regional Trade Show—a trade show in which the promoter's initial invitation is only limited to Louisiana-licensed dealers and whose subsequent invitations may include any nonresident exhibitor who will display and show any product not displayed or shown by a Louisiana-licensed dealer.

Trade Show—a controlled event in which a promoter charges or barbers for booth space and/or charges for spectator entrance in which three or more recreational products dealers exhibit vehicles.

Trade Show Permit—a temporary license issued to a promoter to perform a recreational products trade show.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 783(F)(7).

HISTORICAL NOTE: Promulgated by the office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:

§3002. License Fees and Applications

A. Promoters of recreational products trade shows shall be required to obtain a license from the commission and its request for license shall consist of the following:

1. the application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$100;

3. a promoter's license shall be for one calendar year and shall expire on December 31.

B. A promoter shall also be required to obtain a trade show permit from the commission and its request for a permit shall consist of:

1. the identity of at least three participants, the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted at the trade show;

2. an official designation as to whether the trade show is a regional trade show, with proof supporting that the show facilities have adequate space to host the type of show being permitted;

3. a fee of \$500 per regional trade show;

4. a fee of \$200 per local trade show.

C. A nonresident exhibitor shall be required to provide the following documents to the commission to obtain a

display permit to display recreational products in a trade show:

1. an oath or affirmation that the nonresident exhibitor has complied with all registration requirements of the state in which he conducts his business including any requirements pertaining to posting of bond and demonstration of fiscal responsibility;

2. a notarized copy of the dealer's or manufacturer's current license issued in the state in which he conducts his business;

3. the name, site, and dates of the show or exposition for which a nonresident exhibitor's permit is sought and the name and address of the promoter of that show or exposition;

4. such other pertinent information consistent with the safeguarding of the public interest and public welfare;

5. an application fee of \$100.

D. A Louisiana-licensed recreational products dealer who participates in a recreational products show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

E. All applications to the commission for display permits received within five days of that start of the trade show or exposition shall be charged a \$50 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission LR 34:

§3003. Order of Preference and Priority

A. The following order of preference shall be observed by the promoter in arranging a regional trade show.

1. The promoter shall first contact all Louisiana-licensed dealers who sell the type of vehicles being promoted, and those Louisiana-licensed dealers who accepted the invitation to attend the show shall exclude all nonresident exhibitors from displaying or showing the particular line of recreational products that they are displaying at the show or exposition. The acceptance of an invitation by a Louisiana-licensed dealer shall be expressed as a signed contract for space and accompanied by any deposits required by the show promoter and shall be performed within a reasonable time following the invitation as required by the promoter.

2. The promoter may then invite any nonresident exhibitor to attend the show or exposition to display and show any product not displayed or shown by a Louisiana-licensed dealer.

B. The following order of preference shall be observed by the promoter in arranging a local trade show.

1. The promoter shall first contact all Louisiana-licensed dealers who sell the type of vehicles being promoted, starting within a 30-mile radius of the proposed show or exposition, and those Louisiana-licensed dealers within a 30-mile radius to the show who accepted the invitation to attend the show shall exclude all other dealers from outside of 30 miles from displaying or showing the particular line of recreational products that they are displaying at the show or exposition.

2. The promoter may invite but shall accept any requests from a Louisiana-licensed dealer, who is not

excluded by the provision above and is beyond 30 miles to attend a show or exposition, and those Louisiana-licensed dealers who attend the show shall exclude all nonresident exhibitors from displaying or showing the particular line of recreational products that they are displaying at the show or exposition.

3. The promoter may then invite any nonresident exhibitor to attend the show or exposition to display and show any product not displayed or shown by a Louisiana-licensed dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:

§3004. Violations

A. It shall be unlawful and shall constitute a violation of this Chapter:

1. for a recreational products dealer or a non resident exhibitor to display or show recreational products at any trade show except as allowed in §3003 above;

2. for a nonresident exhibitor to display or show recreational products at a trade show without first obtaining a display permit;

3. for a promoter:

a. to knowingly allow any dealer or nonresident exhibitor to display recreational products in any manner other than what is allowed in §3003 above;

b. to knowingly allow any dealer or nonresident exhibitor of recreational vehicles to display or show any line of recreational vehicles offered by any licensed recreational vehicle dealer whose franchise area includes the location of the trade show, unless the recreational vehicle dealer whose franchise territory includes the location of the trade show consents to the display;

c. to knowingly allow a nonresident exhibitor to display or show recreational products without having a display permit;

d. to fail to keep all records of attending dealers and sufficient and reasonable proof of the required invitations to dealers and proof that dealers who have declined to attend a trade show or exposition for a period of three years;

e. to allow a manufacturer or distributor, other than a nonresident exhibitor, to exhibit vehicles in any manner other than through a licensed dealer;

f. to fail to provide to the commission 10 days prior to the trade show a complete list of all dealers participating in the trade show;

4. for a licensed recreational products dealer or nonresident exhibitor to complete a sales transaction (by accepting the purchase funds, completing the paperwork and/or delivering product) for any recreational products at a trade show. Said restriction shall not apply or extend to sales and price negotiation, accepting deposits, setting closing dates, or completing a buyer's order;

5. for a licensed recreational vehicle dealer to knowingly display at a trade show the same line of recreational vehicles as displayed by a licensed recreational vehicle dealer whose franchise territory includes the location of the trade show, unless the recreational vehicle dealer whose franchise territory includes the location of the trade show consents to the display;

6. for a licensed recreational vehicle manufacturer or distributor to exhibit recreational vehicles at a trade show in any manner other than through a licensed dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:

§3005. Miscellaneous Provisions; Enforcement

A. If a recreational vehicle trade show is being held in a location where the same line makes or models of recreational vehicles does not have a dealer with a franchise territory, it shall be the manufacturer's responsibility to determine which licensed dealer(s) will represent that same line makes or models at the trade show.

B. The commission shall have authority to issue any orders necessary to enforce the provisions of this Section, including the entry of a cease and desist order which may be enforced in any proper venue including the parish of East Baton Rouge.

C. In addition to the enforcement of any necessary orders, the commission may suspend or revoke any license and/or it may impose a penalty in accordance with R.S. 32:788. In such cases, the affected licensee will be given all notices, opportunity to be heard and rights to appeal as conferred in R.S. 32:785.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:

§3006. Off-Site Displays—Marine Products

A. The commission must approve all off-site displays of new marine products. A request for an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any off-site display must be within the dealer's defined area of responsibility or within his manufacturer's contracted agreement for the make and mode to be displayed.

C. The licensee participating in an off-site display of his product is not required to contract all dealers within a 50 mile radius.

D. Each off-site display of marine products is limited to:

1. one marine dealer;

2. nine days and four displays a year. An off-site display of marine products will be permitted at the same location every six months.

E. The number of vehicles at any off-site display of marine products will be left to the discretion of the commission, with a maximum of 20 vehicles per licensee, per display.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, marine products cannot be delivered from that off-site display location.

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:814(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. A licensee must furnish a liability insurance binder to the owner of the off-site property. The same liability binder

with the off-site property and owner listed must be furnished to the commission with the Off-Site Display Form.

I. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), LR 34:

Chapter 36. Recreational Products Trade Shows

Subchapter A. Recreational Products

§3601. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783 (F) (7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), repealed LR 34:

§3603. License, Fees and Applications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:

§3605. Qualifications and Eligibility of Recreational Products Trade Shows

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:

Subchapter B. Motor Vehicle Trade Shows and Off-Site Displays

§3606. Off-Site Displays—Marine Products

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:

§3607. Off-Site Displays—Motorcycles, ATV's and RV's

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1).

HISTORICAL NOTE: Promulgated by the Office of Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1636 (August 2007), repealed LR 34:

Family Impact Statement

The proposed Rule of the Louisiana Recreational and Used Motor Vehicle Commission should not have any

known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments no later than 4:30 p.m. on January 10, 2008, to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA 70808 (225) 925-3870.

John M. Torrance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Recreational Products Trade Show

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in additional revenue to the Recreational and Used Motor Vehicle Commission relative to an increase in assessment fees for local trade show permits and the adoption of a Regional Trade show permit. The total number of trade show permits varies from year to year. The cost of a local trade show promoter's permit will be \$200 (currently \$50) and the promoter's permit for a regional trade show will be \$500.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will directly affect seventeen local trade show promoters by adding an additional \$150 per permit and any regional trade show permit will be assessed \$500. Additional language defines rules to promoters in arranging local or regional trade shows and to dealers or non resident exhibitors in displaying or selling at trade shows as written in §3003. Violations may result in the enforcement of cease and desist orders, may suspend or revoke any license and/or impose a penalty in accordance with R.S.32:788.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not effect competition and employment.

John M. Torrance
Executive Director
0712#077

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Adjudication (LAC 46:XLV.9905)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, the board intends to amend LAC 46:XLV, Subpart 5, Chapter 99, §9905, of its rules of adjudication.

The proposed Rule amendments have no known impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 5. Rules of Procedure**

Chapter 99. Adjudication

§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 60 days from the date of suspension, unless respondent waives convening a hearing during such period.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ext. 242. She is responsible for responding to inquiries on the proposed Rule amendments. Written comments will be accepted until 4 p.m., January 14, 2008.

Robert L. Marier, M.D.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adjudication**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than notice and rule publication costs estimated at a combined total of \$140, which costs will be absorbed within the Board's budget during FY 2007-2008, it is not anticipated that the proposed rule will result in any additional costs or savings to the Board or any other state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the Board's revenue collections or those of any other state or governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In the event an individual's license, permit, certificate or registration has been suspended pending hearing, pursuant to R.S. 49:961(C), the rules currently provide that an evidentiary hearing shall be noticed and scheduled not more than 45 days after the filing of the complaint. The proposed amendment extends from 45 to 60 days from the date of suspension within which to conduct a hearing. To the extent possible, the proposed amendment will insure that such evidentiary hearings align with one of the regularly scheduled monthly meetings of the board. From a practical application it is not anticipated that the proposed amendment will have any material impact on licensees as in most if not all instances an individual whose license has been suspended, pursuant to R.S. 49:961(C), typically waive an expedited hearing setting. Accordingly, the Board does not anticipate that implementation of the proposed rule will have any adverse costs and/or economic impact on licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0712#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Dispensation of Medications
(LAC 46:XLV.6503, 6505, 6506, and 6515)

Notice is hereby given, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, intends to amend its Rule governing dispensation of medications, Title 46:XLV, Subpart 3, Chapter 65, §6503, §6505, §6506, and §6515, to establish durational limits on the dispensation of controlled substances and other drugs of concern by physicians.

The proposed Rule amendments have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Drugs of Concern—carisoprodol, dezocine, nalbuphine and tramadol and such other non-controlled substances, as defined by rule, which demonstrate a potential for abuse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004), LR 34:

Subchapter B. Prohibitions, Sanctions and Exceptions

§6505. Prohibitions

A. - D. ...

E. Except as provided in §6506 of this Subchapter, a registrant shall not dispense any controlled substance or drug of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

§6506. Exceptions

A. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single 48 hour supply of a single controlled substance or drug of concern to a patient.

B. The prohibition contained in §6505.E of this Subchapter shall not apply to a registrant:

1. practicing in a facility maintained or operated by the state of Louisiana or a governmental entity of this state;

2. practicing in a clinic maintained or operated by the United States or by any of its departments, offices or agencies;

3. practicing in a substance abuse or addiction treatment facility licensed by the Louisiana Department of Health and Hospitals; or

4. engaged in clinical research or investigational studies regulated by the U.S. Food and Drug Administration, in compliance with all applicable state and federal laws, rules and regulations.

C. Upon written application by a physician to the board made in accordance with this Subsection the board may, with respect to an identified individual patient:

1. authorize a physician to depart from the dispensing limitation prescribed by §6506.A of this Subchapter. Such application shall contain:

a. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the dispensing limitation on controlled substances and drugs of concern, together with a statement by the physician of the medical

facts and circumstances deemed by the physician to justify such departure; and

b. such other information and documentation as the board may request;

2. the board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of §6506.A of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in §6506.A of this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Subchapter C. Registration

§6515. Registration Procedure

A. ...

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, at P. O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130), (504) 568-6820, Ext. 242. She is responsible for responding to inquiries on the proposed rule amendments. Written comments will be accepted until 4 p.m., January 14, 2008. Should it become necessary to convene a public hearing to receive data, views, arguments, information or comments orally, in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on Monday, January 28, 2008, at 2 p.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA.

Robert L. Marier, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dispensation of Medications

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Other than the rule publication costs, the total of which are estimated to be \$238 over the years FY 2007 and FY 2008, it is not anticipated that the proposed rule amendments will result in any material costs to the Board of Medical Examiners or any state or local governmental unit. Conversely, it is anticipated that implementation of the proposed rule amendments will, to

an extent that is not quantifiable, result in substantial savings to the Board by virtue of reducing the need to conduct on-going audits of every registered dispensing physician to insure reporting compliance with the Prescription Monitoring Program Act (the "Program"), adopted by Act 676 of the 2006 Louisiana Legislature, R.S. 40:1001, et seq., and the implementing rules promulgated by the Louisiana Board of Pharmacy, 46:LAC, Chapter 29, §§2901-2931.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendments will have any effect on the Board's revenue collections or that of any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rules will have any material effect on costs, paperwork or workload of physicians who dispense controlled substances or other drugs of concern. Implementation of the proposed rules may, however, to an extent that is not quantifiable, serve to decrease receipts and/or income of such physicians only if and to the extent that such physicians currently dispense controlled substances and other drugs of concern at a charge to the patient in excess of the physician's costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any material impact on competition or employment in either the public or private sector.

Robert Marier, M.D.
Executive Director
0712#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Wholesale Drug Distributors

License Procedure (LAC 46:XCI.103, 301, 309, and 311)

Editor's Note: This Notice is being reprinted in its entirety to correct an error upon submission. The original Notice may be viewed in the November 20, 2007 edition of the *Louisiana Register* on pages 2504-2506.

The Louisiana Board of Wholesale Drug Distributors proposes to amend LAC 46:XCI.103, 301, 309, and 311 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq., of the Louisiana Board of Wholesale Drug Distributors Practice Act. These proposed Rule amendments will assist and support the board in its ability to license and regulate entities in the wholesale distribution of legend drugs and medical devices in/within the state. The proposed Rule amendments have no known impact on family formation, stability, and autonomy as described in R.S. 49:972. The proposed amendments to the Rule are set forth below.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XCI. Wholesale Drug Distributors

Chapter 1. General Provisions

§103. Definition

A. As used in this regulation, unless the context otherwise requires:

Applicant or Responsible Party—an individual designated by the applying or licensed entity as the person responsible for facility operations and/or licensing for the applying or licensed facility location.

Drug or Device—any legend drug or legend device intended for use by humans which can be dispensed by prescription or order of a licensed practitioner and whose labeling contains the legend "Caution: Federal law prohibits dispensing without a prescription." or "Caution: Federal law restricts this device to sale by or on the order of a (*licensed healthcare practitioner*)." or "Rx only."

Legend Drug—

a. a drug limited by Section 503(b)(1) of the federal Food, Drug, and Cosmetic Act to being dispensed by or upon a licensed practitioner's prescription because the drug is:

- i. habit-forming;
- ii. toxic or having potential for harm;
- iii. limited in its use to use under a practitioner's supervision by the new drug application for the drug.

b. The product label of a legend drug is required to contain the statement "Rx Only" or "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION".

c. ...

Medical Gas—any pure gas or gas mixture packaged as any liquefied (cryogenic) or compressed gas (vaporized) that is designated as a drug product.

Off-Site Storage Facility—a structure, warehouse, or building used by a licensed wholesale drug or device distributor strictly for storage of legend drugs or devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003), LR 32:394 (March 2006), LR 34:

Chapter 3. Wholesale Drug or Device Distributors

§301. Licensing, Renewal and Reinstatement Requirements

A. Every wholesale drug or device distributor who engages in the wholesale distribution of drugs or devices, to include without limitation, manufacturing in this state, shipping in or into this state or selling or offering to sell in or into this state, shall register annually with the board by application for a license on a form furnished by the board and accompanied by the license fee.

1. The board shall require a separate license for each facility or physical location directly or indirectly owned or operated by the same business entity or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

2. Parent entity must license all divisions, subdivisions, subsidiaries, and/or affiliate companies owned

by the parent company that sell and/or ship legend drugs or devices in or into Louisiana.

B. - C. ...

D. Each application for the renewal of the license must be made on or before December 31 of each year.

1. If a license is not timely and properly renewed on or before the December 31 expiration date, a person may apply for reinstatement of the expired license within one year, or by the next December 31 after expiration of the license, upon timely and properly submitting an application to the board, and other pertinent information which may be requested, as well as payment of the renewal fee and the reinstatement fee.

2. During the period the license is expired until reinstatement of the expired license, the person may not lawfully operate as a wholesale drug or device distributor in Louisiana.

3. If a license is expired beyond one year, a person may apply for reinstatement of the expired license by submitting an application to the board, along with any pertinent information and documents which may be required, as well as payment of the application fee and the reinstatement fee.

E. - I.1. ...

J. If a licensed in-state wholesale drug or device distributor has an additional off-site storage facility, the off-site storage facility may operate under the current wholesale drug or device distribution license held by the licensee as long as the off-site storage facility is in compliance with §309A.1 of these regulations and has temperature monitoring and an alarm system and the off-site storage facility does not physically receive or distribute legend drugs or devices from its location.

K. A license shall not be issued by the board for any wholesale drug or device distributor to operate from or out of a dwelling, building, or property zoned as residential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1479 (August 2003), LR 32:396 (March 2006), LR 34:

§309. Storage and Handling Requirements

A. - A.3.a. ...

b. Appropriate electromechanical or electronic temperature recording equipment, devices, and logs approved by the board shall be utilized to document proper storage of drugs or devices. Spring-loaded or mercury driven temperature monitoring devices are not approved by the board for use in monitoring and recording product temperature.

3.c - 5.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:398 (March 2006), LR 34:

§311. Drug or Device Distribution Recordkeeping

A. - C. ...

D. Copies of current licenses for customers who are authorized by law or regulation to procure or possess drugs or devices shall be maintained for all customers that are shipped or sold drugs or devices. If customer licenses are

maintained off site, a list of customer names, addresses, license numbers, and license expiration dates shall be maintained at the licensed distribution location for all customers that are shipped or sold drugs or devices.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 32:399 (March 2006), LR 34:

Interested parties may submit written comments to John Liggio, Executive Director, Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA 70816. Comments will be accepted through the close of business on Tuesday, January 22, 2008. If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on Tuesday, January 29, 2008, at 11 a.m. at the office of the Louisiana Board of Wholesale Drug Distributors, 12046 Justice Avenue, Suite C, Baton Rouge, LA.

Kimberly B. Barbier
Executive Assistant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: License Procedure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local government units, except for those associated with publishing the rule amendment (estimated at \$400 in FY 2008). Licensees will be informed of this rule change via the Board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as there will not be an increase in fees resulting from the amendment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule amendments define new and clarify existing terms used within the rules for practice and procedure for wholesale drug distributors (approximately 195 in-state and 1,215 out-of-state), and further clarify current licensing procedures and practices for the wholesale distribution of legend drugs or devices in/within Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result of the proposed rule change.

Kimberly Barbier
Executive Assistant
0712#030

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Facility Building Codes (LAC 48:I.5126)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.5126 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule governing licensing requirements for community homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR), for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 13, Number 4)*. Act 41 of the 2005 First Extraordinary Session of the Louisiana Legislature authorized the department to promulgate rules for the establishment, reestablishment or continued operations of nursing facilities, hospitals and intermediate care facilities for the mentally retarded located in areas subject to hurricanes, tidal surges or flooding. The department now proposes to adopt minimum licensing standards to include building and construction codes and guidelines for community homes located in those areas.

It is anticipated that the implementation of this proposed Rule will have a positive impact on families by providing assurance that their loved ones are being housed in facilities that have been constructed or renovated to withstand the impact of hurricanes, tidal surges or flooding.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 51. Licensing Requirements for Community Homes

§5126. Facility Building Codes

A. All construction of new community home facilities, including replacement facilities, and all construction of additions or wings, alterations, re-establishments, refurbishing, renovations to and reconstruction of existing community home facilities or wings shall be in compliance with the following codes and standards:

1. the building codes described in the Guidelines for Construction and Equipment of Hospital and Medical Facilities, Current Edition, published by the American Institute of Architects Press;
2. the Standard Plumbing Code, Current Edition;
3. the International Building Code (IBC), 2006 Edition;
4. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;
5. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;
6. the ICC 500: NSSA Standard on the Design and Construction of Storm Shelters, published by the

International Code Council and National Storm Shelter Association, 2008 Edition;

7. the American Society of Civil (ASCE) Engineers Minimum Design Loads for Buildings and Other Structures;

8. the American Society for Testing and Materials (ASTM), E84;

9. the Advisory Base Flood Elevation (ABFE), published by FEMA; and

10. the National Fire Protection Agency (NFPA) Life Safety Code.

B. All community home facilities will be designated to a specific hazard resistant category, and must comply with the requirements for that category. Specific hazard resistant categories are categories defined by Building Code Levels 1, 2, 3, or 4 relative to the location in which the facility is seeking to be licensed. Facilities south of Building Code Level 4 are prohibited. Any facility that is located on a line of delineation for a category shall be deemed to be in the next higher specific hazard resistant category and therefore shall fall within the higher Building Code Level. A map indicating these specific hazard resistant categories may be viewed on the Department of Health and Hospitals (DHH) website under the "maps" icon and on the DHH Health Standards website under the "publications" icon. The specific hazard resistant categories are as follows:

1. Building Code Level 1, termed as basic risk resistant, is the specific hazard resistant category for facilities located north of the yellow line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 100 miles per hour. The line designating the southern boundary of Building Code Level 1 can be found at the following coordinates:

Latitude 30° 35' 05" N Longitude 93° 43' 06" W to
Latitude 30° 35' 05" N Longitude 92° 35' 50" W to
Latitude 30° 41' 51" N Longitude 91° 44' 01" W to
Latitude 31° 00' 04" N Longitude 91° 05' 57" W state line

2. Building Code Level 2, termed as medium risk resistant, is the specific hazard resistant category for facilities located south of the yellow line and north of the blue line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 110 miles per hour. The line designating the southern boundary of Building Code Level 2 can be found at the following coordinates:

Latitude 30° 14' 39" N Longitude 93° 41' 13" W to
Latitude 30° 05' 02" N Longitude 92° 53' 12" W to
Latitude 30° 03' 02" N Longitude 92° 42' 47" W to
Latitude 29° 57' 02" N Longitude 91° 59' 17" W to
Latitude 30° 02' 01" N Longitude 91° 35' 59" W to
Latitude 30° 06' 03" N Longitude 91° 25' 12" W to
Latitude 30° 17' 06" N Longitude 91° 01' 56" W to
Latitude 30° 22' 14" N Longitude 90° 55' 55" W to
Latitude 30° 35' 55" N Longitude 90° 34' 04" W to
Latitude 30° 43' 47" N Longitude 90° 15' 19" W to
Latitude 30° 59' 49" N Longitude 89° 44' 19" W state line

3. Building Code Level 3, termed as high risk resistant, is the specific hazard resistant category for facilities located south of the blue line and north of the pink line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 120 miles per hour. The line designating the southern boundary of

Building Code Level 3 can be found at the following coordinates:

Latitude 29° 53' 00" N Longitude 93° 53' 23" W to
Latitude 29° 53' 00" N Longitude 92° 36' 51" W to
Latitude 29° 38' 10" N Longitude 91° 38' 41" W to
Latitude 29° 41' 07" N Longitude 91° 08' 32" W to
Latitude 29° 45' 11" N Longitude 90° 58' 32" W to
Latitude 29° 53' 20" N Longitude 90° 39' 23" W to
Latitude 29° 59' 00" N Longitude 90° 32' 33" W to
Latitude 30° 03' 59" N Longitude 90° 23' 16" W to
Latitude 30° 27' 44" N Longitude 89° 41' 43" W state line

4. Building Code Level 4, termed as very high risk resistant, is the specific hazard resistant category for facilities located south of red line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 150 miles per hour. The line designating the southern boundary of Building Code Level 4 can be found at the following coordinates:

Latitude 29° 10' 48" N Longitude 91° 03' 07" W to
Latitude 29° 26' 00" N Longitude 90° 27' 42" W to
Latitude 29° 35' 03" N Longitude 90° 09' 09" W to
Latitude 29° 40' 29" N Longitude 90° 00' 00" W to
Latitude 29° 48' 02" N Longitude 89° 49' 31" W to
Latitude 30° 11' 35" N Longitude 89° 31' 48" W state line

C. To comply with a specific hazard resistant category, all the following criteria shall be met.

1. Building Code Level 1:

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet the windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D) when warranted by the design wind speed (this occurs when basic design wind speeds are 120 mph and higher).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to the highest flood elevation determined from the regulatory flood map indicating the 1.0 percent annual chance of exceedence (100 year) event or recently adopted ABFE (whichever is higher).

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

2. Building Code Level 2

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor and essential equipment areas shall be elevated to one of the following flood elevations:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. Flood Design Procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

3. Building Code Level 3

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 and the ASCE 7-05 (w/ $I = 1.15$) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP, critical support areas, and all glazings and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile D/E).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

4. Building Code Level 4:

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 w/ ASCE 7-05 (w/ $I=1.15$) or ICC** 500 (w/ $I=1.0$) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP and critical support areas and all glazing and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile E for all heights).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

D. Existing facilities shall have three years from the effective date of this Rule to come into compliance with the requirements of this Rule. An existing facility is a facility which has been licensed by the department as of the effective date of the final Rule.

1. If an existing facility is engaged in a construction or renovation project, defined as a project involving new construction, renovation, re-construction, building a replacement facility, altering the existing building, or re-establishing a facility, the following time lines shall apply:

a. If the facility's construction or renovation project has received a final building inspection approval from the local/parish authorities at the time of the effective date of this Rule, then the facility project shall be subject to licensure and will have three years to come into compliance with the DHH rule on building codes.

b. If the facility project has not received the final building inspection approval from the parish/local authorities at the time of the effective date of this Rule, then the project shall be required to meet these new building codes published by DHH before the project will be licensed and approved for certification by the department.

2. Upon written application to the department, the department may grant an extension of time to a facility to achieve compliance with these rules, standards, and criteria. The extension may be granted only for good cause shown and only for a period not to exceed one year.

E. No building shall be converted to a community home use unless it complies with the standards and codes set forth herein and with the physical plant standards set forth in the provisions of this Rule.

F. Community homes shall submit a letter to DHH from the local authority which has jurisdiction to issue a permit for the physical facility stating that the specifications set forth in this rule have been met. Local codes which set more stringent standards or add additional requirements shall take precedence over these standards and requirements as set forth in this section. Contact the DHH Division of Engineering and Architectural Services when conflicts occur. The requirements of this Rule are the minimum requirements.

1. A certified equivalent procedure is a procedural option expressed in the Rule expressly allowing a "certified equivalent procedure." A facility using a certified equivalent procedure shall submit a signed letter or report from a registered architect or engineer to show that the facility meets or exceeds the standard required by the Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for January 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Facility Building Codes

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated by the department that the implementation of this proposed rule will cost approximately \$5,333,000 for public facilities possibly needing modification (approximately 35 facilities) over FY 07-08, FY 08-09, and FY 09-10. It is not possible to determine which fiscal years this cost will be incurred. It is anticipated that \$952 (\$476 SGF and \$476 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$476 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt minimum licensing standards to include building and construction codes and guidelines for community homes located in areas subject to hurricanes, tidal surges or flooding. The department anticipates that private community homes will incur costs as a result of this proposed rule, but it is not possible at this time to estimate those costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#099

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Hospice—Payment Rates
(LAC 50:XV.4305)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.4305 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to establish hospice services as a covered service under the Medicaid State Plan (*Louisiana Register*, Volume 28, Number 6). With the exception of payment for physician services, reimbursement for hospice care is made at one of four predetermined rates for each day in which a Medicaid recipient is under the care of the hospice provider. At the recommendation of the Centers for Medicare and Medicaid Services (CMS), the department proposes to amend the June

20, 2002 Rule governing hospice services covered under the Medicaid Program to clarify the hospice payment rate provisions.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 43. Reimbursement

§4305. Hospice Payment Rates

A. The payment rates for each level of care will be the Medicaid hospice rates that are calculated by using the Medicare hospice reimbursement methodology but adjusted to disregard cost offsets attributable to Medicare deductible and coinsurance amounts. For routine home care, continuous home care, and inpatient respite care, only one rate is applicable for each day. For continuous home care, the amount of payment is determined based on the number of hours of continuous care furnished to the recipient on that day.

A.1. - A.2.d.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Hospice—Payment Rates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$204 (\$102 SGF and \$102 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing

Chapter 94. Hospitals
Subchapter J. Physical Environment
§9409. Facility Building Codes

A. All construction of new hospital facilities, including replacement facilities, and all construction of additions or wings, alterations, re-establishments, refurbishing, renovations to and reconstruction of existing hospitals or wings shall be in compliance with the following codes and standards:

1. the building codes described in the Guidelines for Construction and Equipment of Hospital and Medical Facilities, Current Edition, published by the American Institute of Architects Press;
2. the Standard Plumbing Code, Current Edition;
3. the International Building Code (IBC), 2006 Edition;
4. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;
5. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;
6. the ICC 500: NSSA Standard on the Design and Construction of Storm Shelters, published by the International Code Council and National Storm Shelter Association, 2008 Edition;
7. the American Society of Civil Engineers (ASCE) Minimum Design Loads for Buildings and Other Structures;
8. the American Society for Testing and Materials (ASTM), E84;
9. the Advisory Base Flood Elevation (ABFE), published by FEMA; and
10. the National Fire Protection Agency (NFPA) Life Safety Code.

B. All hospitals shall be designated to a specific hazard resistant category, and must comply with the requirements for that category. Specific hazard resistant categories are categories defined by Building Code Levels 1, 2, 3, or 4 relative to the location in which the facility is seeking to be licensed. Facilities south of Building Code Level 4 are prohibited. Any facility that is located on a line of delineation for a category shall be deemed to be in the next higher specific hazard resistant category and therefore shall fall within the higher Building Code Level. A map indicating these specific hazard resistant categories may be viewed on the Department of Health and Hospitals (DHH) website under the "maps" icon and on the DHH Health Standards website under the "publications" icon. The specific hazard resistant categories are as follows.

1. Building Code Level 1, termed as basic risk resistant, is the specific hazard resistant category for facilities located north of the yellow line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 100 miles per hour. The line designating the southern boundary of Building Code Level 1 can be found at the following coordinates:

Latitude 30° 35' 05" N Longitude 93° 43' 06" W to
Latitude 30° 35' 05" N Longitude 92° 35' 50" W to

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$102 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the June 20, 2002 rule governing hospice services covered under the Medicaid Program to clarify the hospice payment rate provisions. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09, and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0712#107

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Hospital Licensing Standards—Facility Building Codes
(LAC 48:I.9409)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9409 as authorized by R.S. 40:2100-2115 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a rule that established new regulations governing the licensing of hospitals (*Louisiana Register*, Volume 29, Number 11). Act 41 of the 2005 First Extraordinary Session of the Louisiana Legislature authorized the department to promulgate rules for the establishment, reestablishment or continued operations of nursing facilities, hospitals and intermediate care facilities for the mentally retarded located in areas subject to hurricanes, tidal surges or flooding. The department now proposes to adopt minimum licensing standards to include building and construction codes and guidelines for hospitals located in those areas.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive impact on families by providing assurance that their loved ones are being housed in facilities that have been constructed or renovated to withstand the impact of hurricanes, tidal surges or flooding.

Latitude 30° 41' 51" N Longitude 91° 44' 01" W to
Latitude 31° 00' 04" N Longitude 91° 05' 57" W state line

2. Building Code Level 2, termed as medium risk resistant, is the specific hazard resistant category for facilities located south of the yellow line and north of the blue line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 110 miles per hour. The line designating the southern boundary of Building Code Level 2 can be found at the following coordinates:

Latitude 30° 14' 39" N Longitude 93° 41' 13" W to
Latitude 30° 05' 02" N Longitude 92° 53' 12" W to
Latitude 30° 03' 02" N Longitude 92° 42' 47" W to
Latitude 29° 57' 02" N Longitude 91° 59' 17" W to
Latitude 30° 02' 01" N Longitude 91° 35' 59" W to
Latitude 30° 06' 03" N Longitude 91° 25' 12" W to
Latitude 30° 17' 06" N Longitude 91° 01' 56" W to
Latitude 30° 22' 14" N Longitude 90° 55' 55" W to
Latitude 30° 35' 55" N Longitude 90° 34' 04" W to
Latitude 30° 43' 47" N Longitude 90° 15' 19" W to
Latitude 30° 59' 49" N Longitude 89° 44' 19" W state line

3. Building Code Level 3, termed as high risk resistant, is the specific hazard resistant category for facilities located south of the blue line and north of the pink line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 120 miles per hour. The line designating the southern boundary of Building Code Level 3 can be found at the following coordinates:

Latitude 29° 53' 00" N Longitude 93° 53' 23" W to
Latitude 29° 53' 00" N Longitude 92° 36' 51" W to
Latitude 29° 38' 10" N Longitude 91° 38' 41" W to
Latitude 29° 41' 07" N Longitude 91° 08' 32" W to
Latitude 29° 45' 11" N Longitude 90° 58' 32" W to
Latitude 29° 53' 20" N Longitude 90° 39' 23" W to
Latitude 29° 59' 00" N Longitude 90° 32' 33" W to
Latitude 30° 03' 59" N Longitude 90° 23' 16" W to
Latitude 30° 27' 44" N Longitude 89° 41' 43" W state line

4. Building Code Level 4, termed as very high risk resistant, is the specific hazard resistant category for facilities located south of the pink line and north of the red line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 150 miles per hour. The line designating the southern boundary of Building Code Level 4 can be found at the following coordinates:

Latitude 29° 10' 48" N Longitude 91° 03' 07" W to
Latitude 29° 26' 00" N Longitude 90° 27' 42" W to
Latitude 29° 35' 03" N Longitude 90° 09' 09" W to
Latitude 29° 40' 29" N Longitude 90° 00' 00" W to
Latitude 29° 48' 02" N Longitude 89° 49' 31" W to
Latitude 30° 11' 35" N Longitude 89° 31' 48" W state line

C. To comply with a specific hazard resistant category, the following criteria shall be met.

1. Building Code Level 1

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet the windborne debris impact requirements per ASTM E 1886 and ASTM E 1996

(for Missile D) when warranted by the design wind speed (this occurs when basic design wind speeds are 120 mph and higher).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to the highest flood elevation determined from the regulatory flood map indicating the 1.0 percent annual chance of exceedence (100 year) event or recently adopted ABFE, whichever is higher.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

2. Building Code Level 2

a. Wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D). For hospitals, specific areas shall have fully-protected exteriors (walls and roofs) and openings including, but are not limited to, emergency departments, Intensive Care Units (ICUs), CCUs, and command or operations centers. This is the high risk resistant level of protection. Whether or not these facilities choose to shelter-in-place, these functional areas are critical to the operational response of the hospital and should be protected to allow operational functionality to return as soon as possible after a natural hazard event.

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to one of the following flood elevations:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

3. Building Code Level 3

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 and the ASCE 7-05 ($w/I = 1.15$) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. Wall and roof areas of SIP and critical support areas of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile D/E). Specific areas that shall have fully-protected exteriors (walls and roofs) and openings include, but are not limited to, emergency departments, ICUs, CCUs, and command or operations centers. This is the high risk resistant level of protection. Whether or not these facilities choose to shelter-in-place, these functional areas are critical to the operational response of the hospital and should be protected to allow operational functionality to return as soon as possible after a natural hazard event. This applies to wall and roof sections

of SIP and critical support areas, and all glazing and openings.

c. Special Flood Hazard Area and Storm Surge Requirement. The Lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii. 0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; and
- iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

4. Building Code Level 4

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 w/ ASCE 7-05 (w/ I=1.15) or ICC** 500 (w/ I=1.0) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP and critical support areas and all glazing and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile E for all heights).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; and
- iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

D. Existing facilities shall have three years from the effective date of this rule to come into compliance with the requirements of this rule. An existing facility is a facility which has been licensed by the department as of the effective date of the final rule.

1. If an existing facility is engaged in a construction or renovation project, defined as a project involving new construction, renovation, re-construction, building a replacement facility, altering the existing building, or re-establishing a facility, the following time lines shall apply.

a. If the facility's construction or renovation project has received a final building inspection approval from the local/parish authorities at the time of the effective date of this Rule, then the facility project will be subject to licensure and will have three years to come into compliance with the DHH Rule on building codes.

b. If the facility project has not received the final building inspection approval from the parish/local authorities at the time of the effective date of this rule, then the project will be required to meet these new building codes published by DHH before the project will be licensed and approved for certification by the department.

2. Upon written application to the department, the department may grant an extension of time to a facility to achieve compliance with these Rules, standards, and criteria. The extension may be granted only for good cause shown and only for a period not to exceed one year.

E. No building shall be converted to hospital use unless it complies with the standards and codes set forth herein and with the physical plant standards set forth in the provisions of this rule.

F. Buildings acquired or constructed for purposes of outpatient treatment or diagnosis and which are to be included under the hospital license, whether on the premises or off, shall comply with the applicable portions of this rule. This requirement includes modular and prefabricated buildings.

G. Hospitals shall submit a letter to DHH from the local authority which has jurisdiction to issue a permit for the physical facility stating that the specifications set forth in this rule have been met. Local codes which set more stringent standards or add additional requirements shall take precedence over these standards and requirements as set forth in this section. The hospital should contact the DHH Division of Engineering and Architectural Services when conflicts occur. The requirements of this rule are the minimum requirements.

1. A certified equivalent procedure is a procedural option expressed in the rule expressly allowing a "certified equivalent procedure." A facility using a certified equivalent procedure shall submit a signed letter or report from a registered architect or engineer to show that the facility meets or exceeds the standard required by the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003), amended LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hospital Licensing Standards
Facility Building Codes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated by the department that the implementation of this proposed rule will cost approximately \$106,800,000 for public facilities possibly needing modification (approximately six facilities) over FY 07-08, FY 08-09, and FY 09-10. It is not possible to determine which fiscal years this cost will be incurred. It is anticipated that \$1,020 (\$510 SGF and \$510 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$510 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt minimum licensing standards to include building and construction codes and guidelines for hospitals located in areas subject to hurricanes, tidal surges or flooding. The department anticipates that private hospitals will incur costs as a result of this proposed rule, but it is not possible at this time to estimate those costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#098

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Intermediate Care Facilities for the Mentally Retarded
Group Homes Licensing—Facility Building Codes
(LAC 48:I.6326)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.5126 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule governing licensing requirements for group homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR), for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 13, Number 4)*. Act 41 of the 2005 First Extraordinary Session of the Louisiana Legislature authorized the department to

promulgate rules for the establishment, reestablishment or continued operations of nursing facilities, hospitals and intermediate care facilities for the mentally retarded located in areas subject to hurricanes, tidal surges or flooding. The department now proposes to adopt minimum licensing standards to include building and construction codes and guidelines for group homes located those in areas.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive impact on families by providing assurance that their loved ones are being housed in facilities that have been constructed or renovated to withstand the impact of hurricanes, tidal surges or flooding.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 63. Licensing Requirements for Group Homes

§6326. Facility Building Codes

A. All construction of new group home facilities, including replacement facilities, and all construction of additions or wings, alterations, re-establishments, refurbishing, renovations to and reconstruction of existing group home facilities or wings shall be in compliance with the following codes and standards:

1. the building codes described in the Guidelines for Construction and Equipment of Hospital and Medical Facilities, Current Edition, published by the American Institute of Architects Press;
2. the Standard Plumbing Code, Current Edition;
3. the International Building Code (IBC), 2006 Edition;
4. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;
5. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;
6. the ICC 500: NSSA Standard on the Design and Construction of Storm Shelters, published by the International Code Council and National Storm Shelter Association, 2008 Edition;
7. the American Society of Civil Engineers Minimum (ASCE) Design Loads for Buildings and Other Structures;
8. the American Society for Testing and Materials (ASTM), E84;
9. the Advisory Base Flood Elevation (ABFE), published by FEMA; and
10. the National Fire Protection Agency (NFPA) Life Safety Code.

B. All group home facilities will be designated to a specific hazard resistant category, and must comply with the requirements for that category. Specific hazard resistant categories are categories defined by Building Code Levels 1, 2, 3, or 4 relative to the location in which the facility is seeking to be licensed. Facilities south of Building Code Level 4 are prohibited. Any facility that is located on a line of delineation for a category shall be deemed to be in the next higher specific hazard resistant category and therefore shall fall within the higher Building Code Level. A map

indicating these specific hazard resistant categories may be viewed on the Department of Health and Hospitals (DHH) website under the "maps" icon and on the DHH Health Standards website under the "publications" icon. The specific hazard resistant categories are as follows.

1. Building Code Level 1, termed as basic risk resistant, is the specific hazard resistant category for facilities located north of the yellow line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 100 miles per hour. The line designating the southern boundary of Building Code Level 1 can be found at the following coordinates:

Latitude 30° 35' 05" N Longitude 93° 43' 06" W to
Latitude 30° 35' 05" N Longitude 92° 35' 50" W to
Latitude 30° 41' 51" N Longitude 91° 44' 01" W to
Latitude 31° 00' 04" N Longitude 91° 05' 57" W state line

2. Building Code Level 2, termed as medium risk resistant, is the specific hazard resistant category for facilities located south of the yellow line and north of the blue line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 110 miles per hour. The line designating the southern boundary of Building Code Level 2 can be found at the following coordinates:

Latitude 30° 14' 39" N Longitude 93° 41' 13" W to
Latitude 30° 05' 02" N Longitude 92° 53' 12" W to
Latitude 30° 03' 02" N Longitude 92° 42' 47" W to
Latitude 29° 57' 02" N Longitude 91° 59' 17" W to
Latitude 30° 02' 01" N Longitude 91° 35' 59" W to
Latitude 30° 06' 03" N Longitude 91° 25' 12" W to
Latitude 30° 17' 06" N Longitude 91° 01' 56" W to
Latitude 30° 22' 14" N Longitude 90° 55' 55" W to
Latitude 30° 35' 55" N Longitude 90° 34' 04" W to
Latitude 30° 43' 47" N Longitude 90° 15' 19" W to
Latitude 30° 59' 49" N Longitude 89° 44' 19" W state line

3. Building Code Level 3, termed as high risk resistant, is the specific hazard resistant category for facilities located south of the blue line and north of the pink line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 120 miles per hour. The line designating the southern boundary of Building Code Level 3 can be found at the following coordinates:

Latitude 29° 53' 00" N Longitude 93° 53' 23" W to
Latitude 29° 53' 00" N Longitude 92° 36' 51" W to
Latitude 29° 38' 10" N Longitude 91° 38' 41" W to
Latitude 29° 41' 07" N Longitude 91° 08' 32" W to
Latitude 29° 45' 11" N Longitude 90° 58' 32" W to
Latitude 29° 53' 20" N Longitude 90° 39' 23" W to
Latitude 29° 59' 00" N Longitude 90° 32' 33" W to
Latitude 30° 03' 59" N Longitude 90° 23' 16" W to
Latitude 30° 27' 44" N Longitude 89° 41' 43" W state line

4. Building Code Level 4, termed as very high risk resistant, is the specific hazard resistant category for facilities located south of red line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 150 miles per hour. The line designating the southern boundary of Building Code Level 4 can be found at the following coordinates:

Latitude 29° 10' 48" N Longitude 91° 03' 07" W to
Latitude 29° 26' 00" N Longitude 90° 27' 42" W to

Latitude 29° 35' 03" N Longitude 90° 09' 09" W to
Latitude 29° 40' 29" N Longitude 90° 00' 00" W to
Latitude 29° 48' 02" N Longitude 89° 49' 31" W to
Latitude 30° 11' 35" N Longitude 89° 31' 48" W state line

C. To comply with a specific hazard resistant category, all the following criteria shall be met.

1. Building Code Level 1

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet the windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D) when warranted by the design wind speed (this occurs when basic design wind speeds are 120 mph and higher).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to the highest flood elevation determined from the regulatory flood map indicating the 1.0 percent annual chance of exceedence (100 year) event or recently adopted ABFE (whichever is higher).

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

2. Building Code Level 2

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor and essential equipment areas shall be elevated to one of the following flood elevations:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

3. Building Code Level 3

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 and the ASCE 7-05 (w/ I = 1.15) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. Wall and roof sections of SIP, critical support areas, and all glazings and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile D/E).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii. 0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or
- iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood Design Procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

4. Building Code Level 4

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 w/ ASCE 7-05 (w/ I=1.15) or ICC** 500 (w/ I=1.0) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP and critical support areas and all glazing and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile E for all heights).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii.) 1.0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or
- iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

D. Existing facilities shall have three years from the effective date of this rule to come into compliance with the requirements of this rule. An existing facility is a facility which has been licensed by the department as of the effective date of the final rule.

1. If an existing facility is engaged in a construction or renovation project, defined as a project involving new construction, renovation, re-construction, building a replacement facility, altering the existing building, or re-establishing a facility, the following time lines shall apply.

a. If the facility's construction or renovation project has received a final building inspection approval from the local/parish authorities at the time of the effective date of this rule, then the facility project shall be subject to licensure and will have three years to come into compliance with the DHH rule on building codes.

b. If the facility project has not received the final building inspection approval from the parish/local authorities at the time of the effective date of this rule, then the project shall be required to meet these new building codes published by DHH before the project will be licensed and approved for certification by the department.

2. Upon written application to the department, the department may grant an extension of time to a facility to achieve compliance with these rules, standards, and criteria.

The extension may be granted only for good cause shown and only for a period not to exceed one year.

E. No building shall be converted to a group home use unless it complies with the standards and codes set forth herein and with the physical plant standards set forth in the provisions of this rule.

F. Group homes shall submit a letter to DHH from the local authority which has jurisdiction to issue a permit for the physical facility stating that the specifications set forth in this rule have been met. Local codes which set more stringent standards or add additional requirements shall take precedence over these standards and requirements as set forth in this section. Contact the DHH Division of Engineering and Architectural Services when conflicts occur. The requirements of this rule are the minimum requirements.

1. A certified equivalent procedure is a procedural option expressed in the rule expressly allowing a "certified equivalent procedure." A facility using a certified equivalent procedure shall submit a signed letter or report from a registered architect or engineer to show that the facility meets or exceeds the standard required by the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for the
Mentally Retarded
Group Homes Licensing—Facility Building Codes**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated by the department that the implementation of this proposed rule will cost approximately \$5,333,000 for public facilities possibly needing modification (approximately two facilities) over FY 07-08, FY 08-09, and FY 09-10. It is not possible to determine which fiscal years this cost will be incurred. It is anticipated that \$952 (\$476 SGF and \$476 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the

federal share of the promulgation costs for FY 07-08. It is anticipated that \$476 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt minimum licensing standards to include building and construction codes and guidelines for group homes located in areas subject to hurricanes, tidal surges or flooding. The department anticipates that private group homes will incur costs as a result of this proposed rule, but it is not possible at this time to estimate those costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#104

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Intermediate Care Facilities for the Mentally Retarded
Residential Homes Licensing—Facility Building Codes
(LAC 48:I.7924)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.7924 as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule governing licensing requirements for residential homes, also known as intermediate care facilities for the mentally retarded (ICFs/MR), for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 13, Number 4)*. Act 41 of the 2005 First Extraordinary Session of the Louisiana Legislature authorized the department to promulgate rules for the establishment, reestablishment or continued operations of nursing facilities, hospitals and intermediate care facilities for the mentally retarded located in areas subject to hurricanes, tidal surges or flooding. The department now proposes to adopt minimum licensing standards to include building and construction codes and guidelines for residential homes located in those areas.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that the implementation of this proposed Rule will have a positive impact on families by providing assurance that their loved ones are being housed in facilities that have been constructed or renovated to withstand the impact of hurricanes, tidal surges or flooding.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 79. Licensing Requirements for Residential Homes

§7924. Facility Building Codes

A. All construction of new residential home facilities, including replacement facilities, and all construction of additions or wings, alterations, re-establishments, refurbishing, renovations to and reconstruction of existing residential home facilities or wings shall be in compliance with the following codes and standards:

1. the building codes described in the Guidelines for Construction and Equipment of Hospital and Medical Facilities, Current Edition, published by the American Institute of Architects Press;
2. the Standard Plumbing Code, Current Edition;
3. the International Building Code (IBC), 2006 Edition;
4. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;
5. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;
6. the ICC 500: NSSA Standard on the Design and Construction of Storm Shelters, published by the International Code Council and National Storm Shelter Association, 2008 Edition;
7. the American Society of Civil Engineers (ASCE) Minimum Design Loads for Buildings and Other Structures;
8. the American Society for Testing and Materials (ASTM), E84;
9. the Advisory Base Flood Elevation (ABFE), published by FEMA; and
10. the National Fire Protection Agency (NFPA) Life Safety Code.

B. All residential home facilities will be designated to a specific hazard resistant category, and must comply with the requirements for that category. Specific hazard resistant categories are categories defined by Building Code Levels 1, 2, 3, or 4 relative to the location in which the facility is seeking to be licensed. Facilities south of Building Code Level 4 are prohibited. Any facility that is located on a line of delineation for a category shall be deemed to be in the next higher specific hazard resistant category and therefore shall fall within the higher Building Code Level. A map indicating these specific hazard resistant categories may be viewed on the Department of Health and Hospitals (DHH) website under the "maps" icon and on the DHH Health Standards website under the "publications" icon. The specific hazard resistant categories are as follows.

1. Building Code Level 1, termed as basic risk resistant, is the specific hazard resistant category for facilities located north of the yellow line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 100 miles per hour. The line designating the southern boundary of Building Code Level 1 can be found at the following coordinates:

Latitude 30° 35' 05" N Longitude 93° 43' 06" W to
Latitude 30° 35' 05" N Longitude 92° 35' 50" W to
Latitude 30° 41' 51" N Longitude 91° 44' 01" W to
Latitude 31° 00' 04" N Longitude 91° 05' 57" W state line

2. Building Code Level 2, termed as medium risk resistant, is the specific hazard resistant category for facilities located south of the yellow line and north of the blue line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 110 miles per hour. The line designating the southern boundary of Building Code Level 2 can be found at the following coordinates.

Latitude 30° 14' 39" N Longitude 93° 41' 13" W to
Latitude 30° 05' 02" N Longitude 92° 53' 12" W to
Latitude 30° 03' 02" N Longitude 92° 42' 47" W to
Latitude 29° 57' 02" N Longitude 91° 59' 17" W to
Latitude 30° 02' 01" N Longitude 91° 35' 59" W to
Latitude 30° 06' 03" N Longitude 91° 25' 12" W to
Latitude 30° 17' 06" N Longitude 91° 01' 56" W to
Latitude 30° 22' 14" N Longitude 90° 55' 55" W to
Latitude 30° 35' 55" N Longitude 90° 34' 04" W to
Latitude 30° 43' 47" N Longitude 90° 15' 19" W to
Latitude 30° 59' 49" N Longitude 89° 44' 19" W state line

3. Building Code Level 3, termed as high risk resistant, is the specific hazard resistant category for facilities located south of the blue line and north of the pink line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 120 miles per hour. The line designating the southern boundary of Building Code Level 3 can be found at the following coordinates.

Latitude 29° 53' 00" N Longitude 93° 53' 23" W to
Latitude 29° 53' 00" N Longitude 92° 36' 51" W to
Latitude 29° 38' 10" N Longitude 91° 38' 41" W to
Latitude 29° 41' 07" N Longitude 91° 08' 32" W to
Latitude 29° 45' 11" N Longitude 90° 58' 32" W to
Latitude 29° 53' 20" N Longitude 90° 39' 23" W to
Latitude 29° 59' 00" N Longitude 90° 32' 33" W to
Latitude 30° 03' 59" N Longitude 90° 23' 16" W to
Latitude 30° 27' 44" N Longitude 89° 41' 43" W state line

4. Building Code Level 4, termed as very high risk resistant, is the specific hazard resistant category for facilities located south of red line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 150 miles per hour. The line designating the southern boundary of Building Code Level 4 can be found at the following coordinates.

Latitude 29° 10' 48" N Longitude 91° 03' 07" W to
Latitude 29° 26' 00" N Longitude 90° 27' 42" W to
Latitude 29° 35' 03" N Longitude 90° 09' 09" W to
Latitude 29° 40' 29" N Longitude 90° 00' 00" W to
Latitude 29° 48' 02" N Longitude 89° 49' 31" W to
Latitude 30° 11' 35" N Longitude 89° 31' 48" W state line

C. To comply with a specific hazard resistant category, all the building criteria shall be met.

1. Building Code Level 1

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet the windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D) when warranted by the design wind speed (this occurs when basic design wind speeds are 120 mph and higher).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to the highest flood elevation determined from the regulatory flood map indicating the 1.0 percent annual chance of exceedence (100 year) event or recently adopted ABFE (whichever is higher).

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

2. Building Code Level 2

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor and essential equipment areas shall be elevated to one of the following flood elevations:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

3. Building Code Level 3

a. The ind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 and the ASCE 7-05 (w/ I = 1.15) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. Wall and roof sections of SIP, critical support areas, and all glazings and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile D/E).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

4. Building Code Level 4

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 w/ ASCE 7-05 (w/ I=1.15) or ICC** 500 (w/ I=1.0) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP and critical support areas and all glazing and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile E for all heights).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii.) 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

D. Existing facilities shall have three years from the effective date of this rule to come into compliance with the requirements of this rule. An existing facility is a facility which has been licensed by the department as of the effective date of the final rule.

1. If an existing facility is engaged in a construction or renovation project, defined as a project involving new construction, renovation, re-construction, building a replacement facility, altering the existing building, or re-establishing a facility, the following time lines shall apply.

a. If the facility's construction or renovation project has received a final building inspection approval from the local/parish authorities at the time of the effective date of this rule, then the facility project shall be subject to licensure and will have three years to come into compliance with the DHH rule on building codes.

b. If the facility project has not received the final building inspection approval from the parish/local authorities at the time of the effective date of this rule, then the project shall be required to meet these new building codes published by DHH before the project will be licensed and approved for certification by the department.

2. Upon written application to the department, the department may grant an extension of time to a facility to achieve compliance with these rules, standards, and criteria. The extension may be granted only for good cause shown and only for a period not to exceed one year.

E. No building shall be converted to a residential home use unless it complies with the standards and codes set forth herein and with the physical plant standards set forth in the provisions of this rule.

F. Residential homes shall submit a letter to DHH from the local authority which has jurisdiction to issue a permit for the physical facility stating that the specifications set

forth in this rule have been met. Local codes which set more stringent standards or add additional requirements shall take precedence over these standards and requirements as set forth in this section. Contact the DHH Division of Engineering and Architectural Services when conflicts occur. The requirements of this rule are the minimum requirements.

1. A certified equivalent procedure is a procedural option expressed in the rule expressly allowing a "certified equivalent procedure." A facility using a certified equivalent procedure shall submit a signed letter or report from a registered architect or engineer to show that the facility meets or exceeds the standard required by the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for the
Mentally Retarded
Residential Homes Licensing—Facility Building Codes**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated by the department that the implementation of this proposed rule will cost approximately \$5,333,000 for public facilities possibly needing modification (approximately six facilities) over FY 07-08, FY 08-09, and FY 09-10. It is not possible to determine which fiscal years this cost will be incurred. It is anticipated that \$952 (\$476 SGF and \$476 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$476 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule proposes to adopt minimum licensing standards to include building and construction codes and guidelines for residential homes located in areas subject to hurricanes, tidal surges or flooding. The department anticipates that private

residential homes will incur costs as a result of this proposed rule, but it is not possible at this time to estimate those costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#103

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medication Attendants Certified (LAC 48:I.10080-10091)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 48:I.10081-10099 as authorized by R.S. 37:1026.1-37:1026.9. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 293 of the 2007 Regular Session of the Louisiana Legislature authorized the Department of Health and Hospitals to establish a three-year pilot program that will allow licensed nursing homes to utilize medication attendants certified (MACs) to administer medications to residents. The Act also authorized the department to establish and maintain a registry of certified medication attendants and to adopt provisions defining minimum qualifications for certification and the authorized and prohibited functions of medication attendants.

In compliance with the directives of Act 293, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt provisions governing the establishment and maintenance of a registry of medication attendants certified and the qualifications and requirements for MACs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Health Standards

Chapter 100. Nurse Aide Training and Competency

Evaluation Program

Subchapter G. Medication Attendant Certified

§10080. Definitions

Abuse—

1. the willful infliction of injury;
2. unreasonable confinement;
3. intimidation; or
4. punishment with resulting physical harm, pain, or mental anguish.

Department—the Louisiana Department of Health and Hospitals (DHH).

LBP—the Louisiana Board of Pharmacy.

LSBN—the Louisiana State Board of Nursing.

LSBPNE—the Louisiana State Board of Practical Nurse Examiners.

Licensed Nurse—a licensed registered nurse or a licensed practical nurse.

Licensed Practical Nurse—a person licensed to practice practical nursing in Louisiana.

Medication Attendant—a person certified by DHH to administer medications to nursing facility residents, hereafter referred to as a medication attendant certified.

Nurse Aide—an individual who has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR), §§483.151-483.154, or has been determined competent as provided in 42 CFR, §483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

Nursing Home—an institution licensed pursuant to R.S. 40:2009.1-2009.10.

Pilot—a program administered by the Department of Health and Hospitals to authorize the certification of medication attendants on a trial basis to perform certain functions in nursing homes licensed and in good standing with DHH and who agree to comply with established criteria to measure the outcome of the program.

Registered Nurse (RN)—a person licensed by the LSBN to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10081. General Provisions

A. The Department of Health and Hospitals (DHH) implements a three-year pilot project which establishes provisions for the use of medication attendants certified in licensed nursing facilities. The department shall also develop and maintain a registry of individuals who have, at a minimum, successfully completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.

B. The medication attendant certified registry will contain the following items:

1. a list of individuals who have successfully completed a medication attendant certified training curriculum and competency evaluation. Each individual listed will have the following information maintained on the registry:

- a. name;
- b. address;
- c. Social Security number;
- d. phone number;
- e. place of employment;
- f. date of employment;
- g. date employment ceased;
- h. state certification number;
- i. documentation of any investigation including codes for specific findings of:
 - i. abuse;
 - ii. neglect;

- iii. extortion;
 - iv. exploitation and misappropriation of property;
- and
- v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired; and
 - j. information relative to training and registry status which will be available through procedures established by the department.

C. Employers must use the registry to determine if a prospective hire is a medication attendant certified and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

D. A certificate holder must notify the department within 30 days after changing his or her address or name.

E. A medication attendant certified or their employer, if aware, must immediately notify the department of any arrest in any state.

F. A person who holds a valid license, registration or certificate as a medication attendant issued by another state may also be certified in Louisiana if the transferring state's training program is at least 100 hours or more and the applicant passes the state competency examination.

1. The applicant must submit a request for reciprocity to the registry.

2. The application must include a current copy of the rules of the other state governing its licensing and regulation of medication aides, a copy of the legal authority (law, act, code, or other) for the state's licensing program, and a certified copy of the license or certificate for which the reciprocal certificate is requested.

3. The department may contact the issuing agency to verify the applicant's status with the agency.

G. When issued, an initial certificate is valid for 12 months from the date of issue. The registry will renew the certificate if:

1. a certificate holder has completed four hours of continuing education focusing on medication administration prior to expiration of the certificate; and

2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

H. The department shall deny renewal of the certificate of a medication attendant certified who is in violation of this Chapter at the time of the application renewal.

I. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

J. A medication attendant certified must function under the direct supervision of a licensed nurse on duty at the nursing facility. A certificate holder must:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a nursing facility; and

2. comply with the department's rules applicable to personnel used in a nursing facility.

K. Persons employed as medication attendants certified in a nursing facility must comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, the department's rule governing the Standards for Payment for

Nursing Homes and Minimum Licensure Standards for Nursing Homes or subsequent amendments. Requirements are met if the individual is:

1. a student enrolled in an accredited school of practical nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

2. a trainee in a medication assistant training program approved by the department under this Chapter who is administering medications as part of the trainee's clinical experience.

L. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas, but shall not be assigned other duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter B. Training and Competency Requirements §10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons must:

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the following COMPASS scores:

- a. Reading, 64;
- b. Writing, 25; and
- c. Pre-Algebra, 31;

2. be a citizen of the United States;

3. be at least 18 years of age;

4. complete a required health and physical examination;

5. be a graduate of high school or have a general equivalency diploma;

6. be currently employed in a facility as a certified nurse aide on the first official day of an applicant's medication attendant training program or be a graduate of a nursing program; and

7. successfully pass a statewide criminal history background check and verification of the results sent to the training entity.

B. A medication attendant certified may not administer medication to a resident in a nursing facility unless the he/she:

1. holds a current certificate issued by the department under this Chapter and acts under the supervision of a person who holds a current license under state law which authorizes the licensee to administer medication; or

2. is currently enrolled in a state approved training course and is acting under the direct supervision of faculty.

C. All medication attendant training and competency evaluation programs must be approved by the department.

D. Training and competency evaluation programs may be provided by community colleges or vocational-technical programs.

E. Each training and competency evaluation program must:

1. maintain qualified, approved registered nurses and licensed practical nurses for classroom and clinical instruction;

2. protect the integrity of the competency evaluations by keeping them secure;

3. utilize a pass rate of at least 80 percent for each individual student; and

4. assure the curriculum meets state requirements.

F. Clinical instruction must be conducted in an approved nursing facility.

G. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for correcting deficiencies will be eliminated from participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10083. Trainee Responsibilities

A. Each medication attendant trainee should be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

B. Trainees must take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

C. If a trainee fails to successfully complete the competency evaluation program, they must re-enroll in a training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10084. Training Curriculum

A. The goal of the medication attendant training and competency evaluation program is the provision of safe, effective and timely administration of medication to residents by medication attendants who are able to:

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;

2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;

3. exhibit behavior to support and promote the rights of residents; and

4. demonstrate proficiency in the skills related to medication administration.

B. Each medication attendant training program shall provide all trainees with a nursing facility orientation that is not included in the required minimum 100 hours of core curriculum. The orientation program shall include, but is not limited to:

1. an explanation of the facility's organizational structure;

2. the facility's policies and procedures;

3. discussion of the facility's philosophy of care;

4. a description of the resident population; and

5. employee rules.

C. Core Curriculum. The curriculum content for the training Program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual nursing facility.

1. The core curriculum must be a minimum of 100 hours in length with a minimum of 40 clinical hours.

2. Each unit objective must be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program must be developed and conducted to ensure that each medication attendant, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. the basic principles of medication administration and the responsibilities of the medication attendant including:

a. the role and functions of a CMA;

b. the professional relationship between the CMA and the residents and their families; and

c. prohibited functions or duties;

2. definition of nurse delegation;

3. definition of the basic terms used in medication administration, including identification of the abbreviation used medication orders and on the medication administration records;

4. review of the various forms of medications;

5. methods of medication administration including:

a. proper positioning of resident for various medication administrations; and

b. the value of good body alignment prior to and after medication administration;

6. requirements for proper storage and security of medications;

7. proper methods for disposal of drugs;

8. infection control;

9. basic anatomy and physiology;

10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems:

a. description of the common disorders associated with these systems; and

b. the effect of aging on these systems;

11. definition of pharmacology including:

a. medication classifications;

b. a description of a controlled drug and how administration of these drugs differ;

c. the cycle of a drug in the body; and

d. side effects of medications;

12. the safe administration of all forms of oral medication including:

a. a description of the difference among all forms of oral medication; and

b. special precautions observed when administering timed-release capsules, enteric-coated tablets and oral suspensions;

13. appropriate procedures to follow when the resident is NPO, dysphagic, refuses the medication, vomits the medication, or has allergies;

14. application of topical medications and the standard precautions utilized in administering a topical medication;

15. the safe instillation of ophthalmic drops and ointments;

16. the safe administration of nose drops;

17. proper technique for administration of inhalant medications including:

a. a description of when the CMA may administer an inhalant;

18. the safe administration of a rectal suppository;

19. the safe administration of a vaginal medication;

20. developing proficiency in measuring liquid medications in a medicine cup or syringe;

21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;

22. the importance of the "chain of command";

23. developing effective communication and interpersonal skills;

24. maintaining communication with the licensed nurse including:

a. a description of the situations that must be reported to the nurse;

25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the MAR;

26. methods for avoiding medication errors:

a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;

28. a discussion of the "six rights" of medication administration;

29. the application and certification; and

30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10085. Competency Evaluation

A. A competency evaluation must be developed and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations will be provided by the training entity or organizations approved by the department. The examination will reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

C. The entity responsible for the training and competency evaluation must report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a medication attendant certified has successfully completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10086. Authorized Duties

A. The medication attendant certified may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties will apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of medication attendants certified to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. Medication attendants certified may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. take and record vital signs prior to the administration of medication that could affect or change the vital signs;

3. in an emergency only, administer oxygen at two liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

4. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

5. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

a. orally;

b. topically (to intact skin only);

c. drops and sprays for the eye, ear or nose;

d. vaginally;

e. rectally;

f. transdermally;

g. by metered dose oral inhalation; or

h. sublingually;

6. record medications administered in the resident's chart and/or medication administration record;

7. chart medication effects and side effects;

8. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

a. the results of the vital signs must be documented in the clinical record;

9. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

10. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

11. crush prescribed medications only if authorization is obtained by the licensed nurse, and the authorization is documented on the medication administration record (MAR) or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1 - 37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10087. Prohibited Duties

A. Medication attendants certified shall not:

1. administer any controlled dangerous substances (Schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;

2. administer any medications by the following parenteral routes:

a. intramuscular;

- b. intravenous;
 - c. subcutaneous; or
 - d. intradermal;
3. administer any medication used for intermittent positive breathing (IPPB) treatments;
 4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;
 5. calculate medication doses for administration;
 6. administer medications or feedings by way of a tube inserted in a cavity of the body;
 7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;
 8. order a resident's medication from a pharmacy;
 9. apply topical medications that involve the treatment of skin that is broken;
 10. steal, divert or otherwise misuse medication;
 11. violate any provision of this Chapter;
 12. procure or attempt to procure a certificate by fraudulent means;
 13. neglect to administer prescribed medications in a responsible and timely manner;
 14. perform a task involving the administration of a medication which requires:
 - a. an assessment of the patient's physical status;
 - b. an assessment of the need for the medication;
 - c. a calculation of the dose of the medication;
 - d. the conversion of the dose; or
 - e. that vital signs be taken prior to administration of the medication:
 - i. vital signs must be taken and recorded by the licensed nurse;
 15. perform a task involving the administration of a medication if the patient is unstable or has changing nursing needs, unless the supervising nurse is able to monitor the patient and the effect of the medication on the patient; or
 16. administer medications if he/she is unable to do so with reasonable skill and safety to the resident if the resident is impaired by reason of excessive use of mood altering drugs, narcotics, chemicals or any other type of material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter D. Provider Participation

§10088. Provider Participation and Responsibilities

A. A nursing facility must apply to the department to utilize medication attendants certified. Upon receipt of a facility's application, the department will review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize medication attendants certified. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies.

C. The department may deny a facility's request to use medication attendants if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation,

the facility may ask for a reconsideration and review of the circumstances which contributed to the denial.

D. The following information must be provided prior to acceptance in the pilot project:

1. the number of beds for the entire nursing facility and beds per unit;
2. the type of nursing facility;
3. the staffing levels per shift;
4. the turnover rate of staff;
5. a plan for orientation and utilization of medication attendants certified, including orientation of all staff to the role of medication attendants;
6. the number and type of medication errors in the year prior to the utilization of medication attendants certified;
7. a survey of patient satisfaction, including the patient's perception of receiving medications, prior to the utilization of medication attendants certified; and
8. a statement that the nursing home will utilize the medication attendants certified in accordance with the accepted rules and regulations and will provide evaluation information as indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter E. Violations

§10089. Allegations of Medication Attendant Certified

Wrong-Doing

A. The department, through its Bureau of Appeals, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by medication attendants certified.

B. In the event of an allegation of wrong-doing, medication attendants certified shall be bound by the department's established:

1. reporting requirements;
2. informal dispute resolution policies;
3. preliminary conference requirements; and
4. appeal and administrative hearing provisions:

a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

C. Through the formal hearing process, determinations will be made on both the certificate for medication attendant and the certificate for nurse aide practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§10090. Suspension, Revocation or Non-Renewal

A. The department may revoke, suspend or refuse to renew a certificate or reprimand a certificate holder for a violation of this Chapter.

B. The following are grounds for disciplinary actions:

1. stealing, diverting or otherwise misusing medication;
2. procuring or attempting to procure a certificate by fraudulent means; or
3. violating any provision of this Chapter.

C. Prior to institution of formal proceedings to revoke or suspend a permit, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to show compliance with all requirements of this Chapter.

D. If denial, revocation or suspension of a certificate is proposed, the department shall give written notice that the certificate holder must submit a written request for a formal hearing within 30 days of receipt of the notice. If not, the right to a hearing shall be waived and the certificate shall be denied, revoked or suspended.

E. If the department suspends a MAC's certificate, the suspension shall remain in effect until the department:

1. determines that the reason for suspension no longer exists;
2. revokes the certificate; or
3. determines not to renew the certificate.

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder must return his certificate to the department.

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures stated in §8603.G. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or does not renew a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or non-renewal continues to exist.

1. If a certificate is revoked or not renewed, the certificate holder must immediately return the certificate to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Subchapter F. Pilot Program

§10091. Evaluation of Pilot Program

A. In order to evaluate the effectiveness of the medication attendant certified program and its impact on the quality of patient care in nursing homes, it is required that the education programs and nursing facilities that choose to participate in the pilot program must participate in the evaluation of all components of the program. They must utilize the appropriate evaluation forms designated by the department and within the required time frames. The completed forms must be submitted to the department.

B. The areas of evaluation and data to be collected are as follows:

1. education program;
2. level of student achievement;
3. student satisfaction surveys;
4. faculty satisfaction; and
5. nursing facility satisfaction surveys.

C. Medication Errors. Nursing facilities shall be required to maintain documentation of medication errors on an

ongoing basis and shall submit this information to the department on a monthly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1026.1-37:1026.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medication Attendants Certified

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than cost of promulgation for FY 07-08. It is anticipated that \$2,176 (\$1,088 SGF and \$1,088 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$1,088 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt provisions to establish a three-year pilot program that will allow nursing facilities to utilize certified medication attendants to administer medications to residents. It also establishes provisions governing a certified medication attendant registry and minimum qualifications for certification and functions. It is not possible at this time to estimate the impact of implementation of this proposed Rule to directly affected persons or non-governmental groups because it is unknown how many nursing facilities and certified medication attendants will choose to participate in this program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#096

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Nursing Facilities—Minimum Licensing Standards Emergency Preparedness (LAC 48:I.9729)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9729 as authorized by R.S. 36:254 and R.S. 40:2009.1-2116.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule to adopt minimum licensing standards for nursing homes (*Louisiana Register*, Volume 24, Number 1). Act 540 of the 2006 Regular Session of the Louisiana Legislature directed the department, in consultation with the Governor's Office of Homeland Security, to adopt provisions governing emergency preparedness requirements for nursing facilities. In compliance with the directives of Act 540, the department amended the January 20, 1998 Rule to revise the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend December 20, 2006 Rule to further revise and clarify the provisions governing emergency preparedness requirements for nursing facilities (*Louisiana Register*, Volume 33, Number 6). This proposed Rule is being promulgated to continue the provisions of the June 10, 2007 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter B. Organization and General Services

§9729. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the Louisiana Model Nursing Home Emergency Plan and provisions of this chapter. The plan shall be designed to manage the consequences of declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its approved emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. Upon the department's request, a nursing facility shall forward its emergency preparedness information and documentation for review.

a. Emergency preparedness information and documentation shall, at a minimum, include:

- i. a copy of the nursing facility's emergency preparedness plan;
- ii. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- iii. the number of operational beds; and
- iv. census information, including transportation requirements for residents.

2. After reviewing the nursing facility's plan, if the department determines that the plan is not viable or does not promote the health, safety and welfare of nursing facility residents, the facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. The emergency preparedness plan shall be individualized and site specific. At a minimum, the nursing facility shall have a written emergency preparedness plan that addresses:

1. the nursing facility's procedures and criteria for determining if staff should evacuate the facility or shelter in place:

a. for evacuation determinations, the nursing facility's plan shall provide for a primary sheltering host site(s) and alternative sheltering host sites outside the area of risk. These host sites must be verified by written agreements or contracts;

b. if the state or parish Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the facility shall evacuate unless the facility receives a written exemption from the ordering authority;

c. the nursing facility shall provide a plan for monitoring weather warnings, weather watches and evacuation orders from local and state emergency preparedness officials;

2. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

3. the provisions for the management of staff, including provisions for adequate, qualified staff as well as provisions for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

4. an executable plan for coordinating transportation services, that shall be air-conditioned when available, required for evacuating residents to another location, including the following:

a. a triage system for residents requiring specialized transportation and medical needs; and

b. a written binding transportation agreement(s) for evacuating residents to a safe location; or

c. a written plan for using transportation equipment owned by, or at the disposal of, the facility;

5. the procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating. If the facility evacuates, notification shall include:

a. the date and approximate time that the facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

- i. name;
 - ii. address; and
 - iii. telephone number; and
 - c. a telephone number that the family or responsible representative may call for information regarding the facility's evacuation;
 - 6. the procedure or method whereby each nursing facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation;
 - 7. the procedure or method whereby each nursing facility resident has the following minimum information included with him during all phases of an evacuation:
 - a. current and active diagnosis;
 - b. medications, including dosage and times administered;
 - c. allergies;
 - d. special dietary needs or restrictions; and
 - e. next of kin, including contact information;
 - 8. the procedure for ensuring that an adequate supply of the following items accompany residents on buses or other transportation during all phases of evacuation:
 - a. water;
 - b. food;
 - c. nutritional supplies and supplements;
 - d. medication; and
 - e. other necessary supplies;
 - 9. the procedures for ensuring that licensed nursing staff accompany residents on buses or other transportation during all phases of evacuation;
 - 10. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;
 - 11. a plan for sheltering in place if the nursing facility determines that sheltering is appropriate:
 - a. If the nursing facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies on hand to include:
 - i. drinking water, a minimum of 1 gallon per day per person;
 - ii. water for sanitation;
 - iii. non-perishable food, including special diets;
 - iv. medications;
 - v. medical supplies;
 - vi. personal hygiene supplies; and
 - vii. sanitary supplies;
 - b. a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The communication plan shall include:
 - i. the type of equipment;
 - ii. back-up equipment;
 - iii. the equipment's testing schedule; and
 - iv. the power supply for the equipment being used;
- and
- c. generator capabilities to include:
 - i. HVAC system;
 - ii. sewerage system;
 - iii. water system;
 - iv. medical equipment;
 - v. refrigeration;
 - vi. lights;
 - vii. communications; and
 - viii. a plan for a seven day supply of fuel; and

12. the nursing facilities subject to the provisions of R.S. 40:2009.25(A) shall have conducted a risk assessment of their facility to determine facility integrity in determining whether sheltering in place is appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the following:

- a. the facility's latitude and longitude;
- b. flood zone determination, using the nursing facility's latitude and longitude;
- c. elevations of the building(s), HVAC system(s), generator(s), fuel storage, electrical service and sewer motor, if applicable;
- d. a building evaluation to include:
 - i. the construction type;
 - ii. roof type;
 - iii. windows and shutters;
 - iv. wind load; and
 - v. interior safe zones;
- e. an evaluation of each generator's fuel source(s), including refueling plans and output of the generator(s) and electrical load of required emergency equipment;
- f. an evaluation of surroundings, including lay-down hazards and hazardous materials, such as:
 - i. trees;
 - ii. towers;
 - iii. storage tanks;
 - iv. other buildings; and
 - v. pipe lines;
- g. an evaluation of security for emergency supplies;
- h. Sea, Lake and Overland Surge from Hurricanes (SLOSH) Modeling using the maximums of the Maximum Envelope of Waters (MOM); and
- i. floor plans of the building being used as the facility's shelter site that indicate:
 - i. the areas being used as shelter or safe zones;
 - ii. emergency supply storage areas;
 - ii. emergency power outlets;
 - iii. communications center;
 - iv. posted emergency information; and
 - v. pre-designated command post.

C. Emergency Plan Activation, Review and Summary

1. The nursing facility's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's Nursing Facility Emergency Preparedness Manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification.

D. The nursing facility's plan shall be submitted to the OHSEP. Any recommendations by the OHSEP regarding the nursing facility's plan shall be documented and addressed by the facility.

E. ...

F. Evacuation, Temporary Relocation or Temporary Cessation

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its

licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and that nursing facility sustains damages due to wind, flooding or experiences power outages for longer than 48 hours, the nursing facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the Office of Public Health and the Bureau of Health Services Financing, Health Standards Section, and the facility has received a letter of approval from the department for reopening the facility.

a. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of the emergency plans.

b. The Health Standards Section, in coordination with state and parish OHSEP, will determine the facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

c. The Health Standards Section will give priority to reopening surveys.

2. If a nursing facility evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, due to a declared disaster or other emergency, and the nursing facility does not sustain damages due to wind, flooding or experiences power outages longer than 48 hours, the nursing facility may be reopened without the necessity of the required surveys. Prior to reopening, the nursing facility shall notify the Health Standards Section in writing that the facility is reopening.

G. Authority to Reopen and Execution of Emergency Preparedness Plan

1. Before reopening at its licensed location, the nursing facility must submit a written initial summary within 14 days from the date of the evacuation to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary must contain, at a minimum:

a. - d. ...

e. a list of injuries and deaths of residents that occurred during the execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

a. - c. Repealed.

H. Sheltering in Place

1. If a nursing facility shelters in place at its licensed location during a declared disaster or other emergency, the nursing facility shall submit a written initial summary within 14 days from the date of the emergency event to the licensing agency attesting how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

2. A more detailed report shall be submitted upon request by the licensing agency.

I. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an evacuation order issued by the state or parish OHSEP, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed five days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to the Health Standards Section and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing home beds within the extension period requested.

b. The extension will be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension will be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and the Health Standards Section and OHSEP shall be informed of the residents' new location(s).

J. Notification

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state or parish OHSEP, the nursing facility must immediately give notice of the following information to the Health Standards Section and OHSEP by facsimile or email:

a. the date and approximate time of the evacuation;

b. the sheltering host site(s) to which the nursing facility is evacuating; and

c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the nursing facility must notify the Health Standards Section and OHSEP of any deviations from the intended sheltering host site(s) and must provide a list of all residents and their locations to the Health Standards Section and OHSEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:49 (January 1998), amended LR 32:2261 (December 2006), LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an

opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Minimum Licensing
Standards—Emergency Preparedness**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that \$1,156 (\$578 SGF and \$578 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$578 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule continues the provisions of the June 10, 2007 Emergency Rule which amended the December 20, 2006 rule to further clarify the provisions governing emergency preparedness requirements for nursing facilities. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09, and FY 09-10.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0712#101

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Nursing Facilities—Minimum Licensing Standards
Facility Building Codes (LAC 48:I.9901)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.9901 as authorized by R.S. 36:254 and R.S. 36:254 and R.S. 40:2009.1-2116.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated

a Rule governing licensing requirements for nursing homes (*Louisiana Register*, Volume 24, Number 1). Act 41 of the 2005 First Extraordinary Session of the Louisiana Legislature authorized the Department to promulgate rules for the establishment, reestablishment or continued operations of nursing facilities, hospitals and intermediate care facilities for the mentally retarded located in areas subject to hurricanes, tidal surges or flooding. The department now proposes to adopt minimum licensing standards to include building and construction codes and guidelines for nursing facilities located in those areas.

It is anticipated that the implementation of this proposed Rule will have a positive impact on families by providing assurance that their loved ones are being housed in facilities that have been constructed or renovated to withstand the impact of hurricanes, tidal surges or flooding.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 99. Nursing Homes

§9901. Facility Building Codes

A. All construction of new nursing home facilities, including replacement facilities, and all construction of additions or wings, alterations, re-establishments, refurbishing, renovations to and reconstruction of existing nursing home facilities or wings shall be in compliance with the following codes and standards:

1. the building codes described in the Guidelines for Construction and Equipment of Hospital and Medical Facilities, Current Edition, published by the American Institute of Architects Press;

2. the Standard Plumbing Code, Current Edition;

3. the International Building Code (IBC), 2006 Edition;

4. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;

5. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;

6. the ICC 500: NSSA Standard on the Design and Construction of Storm Shelters, published by the International Code Council & National Storm Shelter Association, 2008 Edition;

7. the American Society of Civil Engineers (ASCE) Minimum Design Loads for Buildings and Other Structures;

8. the American Society for Testing and Materials (ASTM), E84;

9. the Advisory Base Flood Elevation (ABFE), published by FEMA; and

10. the National Fire Protection Agency (NFPA) Life Safety Code.

B. All nursing home facilities shall be designated to a specific hazard resistant category, and must comply with the requirements for that category. Specific hazard resistant categories are categories defined by Building Code Levels 1, 2, 3, or 4 relative to the location in which the facility is seeking to be licensed. Facilities south of Building Code Level 4 are prohibited. Any facility that is located on a line of delineation for a category shall be deemed to be in the next higher specific hazard resistant category and therefore shall fall within the higher Building Code Level. A map

indicating these specific hazard resistant categories may be viewed on the Department of Health and Hospitals (DHH) website under the "maps" icon and on the DHH Health Standards website under the "publications" icon. The specific hazard resistant categories are as follows:

1. Building Code Level 1, termed as basic risk resistant, is the specific hazard resistant category for facilities located north of the yellow line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 100 miles per hour. The line designating the southern boundary of Building Code Level 1 can be found at the following coordinates.

Latitude 30° 35' 05" N Longitude 93° 43' 06" W to
Latitude 30° 35' 05" N Longitude 92° 35' 50" W to
Latitude 30° 41' 51" N Longitude 91° 44' 01" W to
Latitude 31° 00' 04" N Longitude 91° 05' 57" W state line

2. Building Code Level 2, termed as medium risk resistant, is the specific hazard resistant category for facilities located south of the yellow line and north of the blue line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 110 miles per hour. The line designating the southern boundary of Building Code Level 2 can be found at the following coordinates.

Latitude 30° 14' 39" N Longitude 93° 41' 13" W to
Latitude 30° 05' 02" N Longitude 92° 53' 12" W to
Latitude 30° 03' 02" N Longitude 92° 42' 47" W to
Latitude 29° 57' 02" N Longitude 91° 59' 17" W to
Latitude 30° 02' 01" N Longitude 91° 35' 59" W to
Latitude 30° 06' 03" N Longitude 91° 25' 12" W to
Latitude 30° 17' 06" N Longitude 91° 01' 56" W to
Latitude 30° 22' 14" N Longitude 90° 55' 55" W to
Latitude 30° 35' 55" N Longitude 90° 34' 04" W to
Latitude 30° 43' 47" N Longitude 90° 15' 19" W to
Latitude 30° 59' 49" N Longitude 89° 44' 19" W state line

3. Building Code Level 3, termed as high risk resistant, is the specific hazard resistant category for facilities located south of the blue line and north of the pink line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 120 miles per hour. The line designating the southern boundary of Building Code Level 3 can be found at the following coordinates.

Latitude 29° 53' 00" N Longitude 93° 53' 23" W to
Latitude 29° 53' 00" N Longitude 92° 36' 51" W to
Latitude 29° 38' 10" N Longitude 91° 38' 41" W to
Latitude 29° 41' 07" N Longitude 91° 08' 32" W to
Latitude 29° 45' 11" N Longitude 90° 58' 32" W to
Latitude 29° 53' 20" N Longitude 90° 39' 23" W to
Latitude 29° 59' 00" N Longitude 90° 32' 33" W to
Latitude 30° 03' 59" N Longitude 90° 23' 16" W to
Latitude 30° 27' 44" N Longitude 89° 41' 43" W state line

4. Building Code Level 4, termed as very high risk resistant, is the specific hazard resistant category for facilities located south of red line and is deemed to require a basic design wind speed for structure and building envelope for a minimum of 150 miles per hour. The line designating the southern boundary of Building Code Level 4 can be found at the following coordinates.

Latitude 29° 10' 48" N Longitude 91° 03' 07" W to
Latitude 29° 26' 00" N Longitude 90° 27' 42" W to

Latitude 29° 35' 03" N Longitude 90° 09' 09" W to
Latitude 29° 40' 29" N Longitude 90° 00' 00" W to
Latitude 29° 48' 02" N Longitude 89° 49' 31" W to
Latitude 30° 11' 35" N Longitude 89° 31' 48" W state line

C. To comply with a specific hazard resistant category, all the following criteria shall be met:

1. Building Code Level 1

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet the windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D) when warranted by the design wind speed (this occurs when basic design wind speeds are 120 mph and higher).

c. Special Flood Hazard Area and Storm Surge Requirement. Lowest occupied floor and essential equipment areas shall be elevated to the highest flood elevation determined from the regulatory flood map indicating the 1.0 percent annual chance of exceedence (100 year) event or recently adopted ABFE (whichever is higher).

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

2. Building Code Level 2

a. The wind design procedure shall be approved in accordance with the procedure in the IBC 2006 and the ASCE 7-05 or a certified equivalent procedure.

b. Debris Impact Protection Requirements. All glazing and openings shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (for Missile D).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor and essential equipment areas shall be elevated to one of the following flood elevations:

i. 0.2 percent annual chance of exceedence (500-year) event (if available);

ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;

iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or

iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

3. Building Code Level 3

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 and the ASCE 7-05 (w/ I = 1.15) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. Wall and roof sections of SIP, critical support areas, and all glazings and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile D/E).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii. 0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or
- iv. the elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. The flood design procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or a certified equivalent procedure.

4. Building Code Level 4:

a. The wind design procedure shall be approved in accordance with the wind design procedure in the IBC 2006 w/ ASCE 7-05 (w/ I=1.15) or ICC** 500 (w/ I=1.0) or a certified equivalent procedure.

b. Debris Impact Protection Requirements. The wall and roof sections of SIP and critical support areas and all glazing and openings of the building envelope shall meet windborne debris impact requirements per ASTM E 1886 and ASTM E 1996 (with Missile E for all heights).

c. Special Flood Hazard Area and Storm Surge Requirement. The lowest occupied floor for SIP and essential equipment areas shall be elevated to the highest flood elevation determined from:

- i. 0.2 percent annual chance of exceedence (500-year) event (if available);
- ii. 1.0 percent annual chance of exceedence (100-year) event + 2 feet;
- iii. the elevation corresponding to the highest recorded flood elevation +2 feet; or
- iv. The elevation of the maximum storm surge as accepted by the authority having jurisdiction.

d. Flood Design Procedure shall be approved in accordance with the IBC 2006 and ASCE 7-05 with ASCE 24-05 or certified equivalent procedure.

D. Existing facilities shall have three years from the effective date of this rule to come into compliance with the requirements of this rule. An existing facility is a facility which has been licensed by the department as of the effective date of the final rule.

1. If an existing facility is engaged in a construction or renovation project, defined as a project involving new construction, renovation, re-construction, building a replacement facility, altering the existing building, or re-establishing a facility, the following time lines shall apply:

a. If the facility's construction or renovation project has received a final building inspection approval from the local/parish authorities at the time of the effective date of this Rule, then the facility project shall be subject to licensure and will have three years to come into compliance with the DHH Rule on building codes.

b. If the facility project has not received the final building inspection approval from the parish/local authorities at the time of the effective date of this Rule, then the project shall be required to meet these new building codes published by DHH before the project will be licensed and approved for certification by the department.

2. Upon written application to the department, the department may grant an extension of time to a facility to achieve compliance with these rules, standards, and criteria.

The extension may be granted only for good cause shown and only for a period not to exceed one year.

E. No building shall be converted to nursing home facility use unless it complies with the standards and codes set forth herein and with the physical plant standards set forth in the provisions of this rule.

F. Nursing facilities shall submit a letter to DHH from the local authority which has jurisdiction to issue a permit for the physical facility stating that the specifications set forth in this rule have been met. Local codes which set more stringent standards or add additional requirements shall take precedence over these standards and requirements as set forth in this section. Contact the DHH Division of Engineering and Architectural Services when conflicts occur. The requirements of this rule are the minimum requirements.

1. A certified equivalent procedure is a procedural option expressed in the rule expressly allowing a "certified equivalent procedure." A provider using a certified equivalent procedure shall submit a signed letter or report from a registered architect or engineer to show that the facility meets or exceeds the standard required by the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 24:62, amended LR 34:

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities—Minimum Licensing
Standards—Facility Building Codes**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated by the department that the implementation of this proposed rule will cost approximately \$17,800,000 for public facilities possibly needing modification (approximately two facilities) over FY 07-08, FY 08-09, and FY 09-10. It is not possible to determine which fiscal years this cost will be incurred. It is anticipated that \$952 (\$476 SGF and \$476 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$476 will be collected in FY 07-08 for the

federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to adopt minimum licensing standards to include building and construction codes and guidelines for nursing facilities located in areas subject to hurricanes, tidal surges or flooding. The department anticipates that private nursing facilities will incur costs as a result of this proposed rule, but it is not possible at this time to estimate those costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known impact on competition and employment.

Jerry Phillips
Medicaid Director
0712#102

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Pregnant Women Extended Services—Dental Services
(LAC 50:XV.16105)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 50:XV.16105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage of dental services for Medicaid eligible pregnant women 21 years of age or older who have evidenced the need for periodontal treatment (*Louisiana Register*, Volume 30, Number 3). The bureau now proposes to amend the March 20, 2004 rule to clarify the provisions governing the prior authorization of these services.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

Chapter 161. Dental Services

§16105. Covered Services

A. The following dental services are covered for Medicaid eligible pregnant women 21 years of age or older:

1. comprehensive periodontal evaluation—new or established patient;
2. intraoral—periapical first film;
3. intraoral—periapical each additional film;
4. intraoral—occlusal film;
5. bitewings, two films;
6. panoramic film;

7. prophylaxis—adult;
8. amalgam, one surface, primary or permanent;
9. amalgam, two surfaces, primary or permanent;
10. amalgam, three surfaces, primary or permanent;
11. amalgam, four or more surfaces, permanent;
12. resin-based composite, one surface, anterior;
13. resin-based composite, two surfaces, anterior;
14. resin-based composite, three surfaces, anterior;
15. resin-based composite, four or more surfaces or involving incisal angle, anterior;
16. resin-based composite crown, anterior;
17. prefabricated stainless steel crown, permanent tooth;
18. prefabricated resin crown;
19. pin retention, per tooth, in addition to restoration;
20. periodontal scaling and root planning—four or more contiguous teeth or bounded teeth spaces per quadrant;
21. full mouth debridement to enable comprehensive evaluation and diagnosis;
22. extraction, erupted tooth or exposed root (elevation and/or forceps removal);
23. surgical removal of erupted tooth requiring elevation of mucoperiosteal flap and removal of bone and/or section of tooth;
24. removal of impacted tooth, soft tissue; and
25. removal of impacted tooth, partially bony.

B. Prior authorization is required for designated covered services as identified in the Expanded Dental Services for Pregnant Women Program fee schedule on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:434 (March 2004), amended LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008 at 9:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pregnant Women Extended Services
Dental Services**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 07-08. It is anticipated that

\$272 (\$136 SGF and \$136 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 07-08. It is anticipated that \$136 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule clarifies the provisions governing prior authorization of dental services for Medicaid eligible pregnant women 21 years of age or older. It is anticipated that implementation of this proposed rule will not have estimable cost or economic benefits for directly affected persons or non-governmental groups in FY 07-08, FY 08-09, and FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jerry Phillips
Medicaid Director
0712#100

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

State Children's Health Insurance Program
Louisiana Children's Health Insurance Program
(LAC 50:III.Chapters 201 and 205)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.Chapters 201 and 205 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 4901 of the Balanced Budget Act (BBA) of 1997, Public Law 105-33, enacted provisions under Title XXI of the Social Security Act to establish a new State Children's Health Insurance Program (SCHIP) to expand health care coverage to uninsured, low-income children. Under this program, states have the option of implementing health care assistance for children by: 1) providing coverage that meets requirements specified in the law under Section 2103 of the Act; or 2) expanding coverage under the state's existing Medicaid Plan under Title XIX of the Act; or 3) a combination of both.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implemented a Medicaid expansion program called the Louisiana Children's Health Insurance Program (LaCHIP) (*Louisiana Register*, Volume 24, Number 10). The first phase of LaCHIP provided health care coverage to uninsured children up to age 19 with family income below 133 percent of the federal poverty level (FPL). The October 20, 1998 Rule was

subsequently amended to: 1) implement the second phase of LaCHIP which expanded coverage to uninsured children with family income up to 150 percent of the FPL (*Louisiana Register*, Volume 25, Number 9); and 2) implement the third phase which expanded coverage to uninsured children with family income from 150 percent up to 200 percent of the FPL (*Louisiana Register*, Volume 26, Number 12). The fourth phase of the children's health insurance expansion was implemented by Emergency Rule as a stand-alone SCHIP program to provide coverage of prenatal care services to low-income, non-citizen women (*Louisiana Register*, Volume 34, Number 5).

In compliance with Act 407 of the 2007 Regular Session of the Louisiana Legislature, the department now proposes to implement phase five of LaCHIP as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the FPL. The October 20, 1998, October 1, 1999 and January 1, 2001 Rules are being repromulgated in a codified format in this proposed Rule for inclusion in the *Louisiana Administrative Code*.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive effect on the family functioning, stability and autonomy as described in R.S. 49:972 by expanding health care coverage to an additional group of children who are uninsured and not receiving needed health care services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program Chapter 201. Louisiana Children's Health Insurance Program (LaCHIP)—Phases 1-3

§20101. General Provisions

A. Section 4901 of the Balanced Budget Act of 1997, Public Law 105-33, established provisions under Title XXI of the Social Security Act to provide health insurance coverage to uninsured, low-income children through an expansion of existing Medicaid Programs, creation of stand-alone programs, or a combination of both. The department implemented the provisions of Title XXI as a Medicaid expansion program called the Louisiana Children's Health Insurance Program (LaCHIP).

B. Effective October 20, 1998, the department implemented phase one of LaCHIP which provides coverage to uninsured children with family income up to 133 percent of the federal poverty level.

C. Effective October 1, 1999, the department implemented phase two of LaCHIP which provides coverage to uninsured children with family income between 133 and 150 percent of the federal poverty level.

D. Effective January 1, 2001, the department implemented phase three of LaCHIP which provides coverage to uninsured children with family income up to 200 percent of the federal poverty level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20103. Eligibility Criteria

A. The LaCHIP Medicaid program provides health insurance coverage to low-income, uninsured children who meet the following criteria:

1. are under the age of 19;
2. are from families with income at or below 133 percent of the federal poverty level; and
3. do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997.

B. The following children are excluded from coverage under the LaCHIP Medicaid expansion:

1. those currently eligible for Medicaid;
2. those currently covered by other types of health insurance;
3. inmates of a public institution; and
4. patients in an institution for mental disease.

C. Children are considered uninsured, for the purpose of determining eligibility for LaCHIP, if they do not have creditable coverage for health insurance.

1. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage and the exceptions to health insurance coverage as cited in Section 2110 of the Social Security Act which references 42 U.S.C. §300gg(c)(1), §300gg-91(b)(1), and §300 gg-91(c)(1).

D. Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to insurance coverage.

1. For the purposes of this Rule, the term *loss of employment* shall include the following:

- a. loss of employment due to a lay-off, downsizing, resignation, firing, etc.;
- b. death of the parent whose employment provided access to dependent coverage;
- c. change of employment to an employer that does not provide an option for dependent coverage;
- d. discontinuation of health benefits for all employees of the applicant's employer;
- e. expiration of coverage periods established by the Consolidated Omnibus Reconciliation Act of 1985 (COBRA); or
- f. termination of health benefits due to a long term disability of the parent whose employment provided access to dependent coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP)—Phase V

§20501. General Provisions

A. Effective April 1, 2008, the department implements phase five of LaCHIP as a stand-alone program under the provisions of Title XXI of the Social Security Act to provide coverage to uninsured children with family income from 200 percent up to 250 percent of the federal poverty level.

B. The department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the Louisiana Division of Administration, Office of Group Benefits Preferred Provider Organization (PPO) plan.

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums, co-payments and deductibles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20503. Eligibility Criteria

A. This LaCHIP stand-alone program provides health care coverage to uninsured children who meet the following criteria:

1. are under the age of 19;
2. have family income from 200 percent up to 250 percent of the federal poverty level;
3. do not have creditable health insurance coverage; and
4. are not eligible for any other Medicaid program.

B. For the purpose of determining eligibility for phase five of LaCHIP, children are considered to be uninsured if they do not have creditable health insurance at the time of application. Children shall not be considered uninsured if their creditable coverage is dropped within the 12 calendar months prior to application, unless the reason for dropping the coverage is considered to be involuntary loss of coverage. Loss of coverage for one of the following reasons shall be considered involuntary loss of coverage:

1. loss of coverage resulting from divorce or death of a parent;
2. the child reaches his maximum lifetime coverage amount;
3. expiration of coverage under a Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 continuation provision within the meaning given in 42 U.S.C. 300gg-91;
4. involuntary termination of health benefits due to:
 - a. a long-term disability or medical condition;
 - b. termination of employment, including lay-off or business closure; or
 - c. reduction in the number of hours of employment;
5. changing to a new employer who does not provide an option for dependent coverage; or
6. the family terminated health insurance coverage for the child because private insurance is not cost effective (the cost to the child's family for the coverage exceeded 10 percent of the family's income).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20505. Covered Services

A. Children covered in phase five of the LaCHIP expansion shall receive benefits through the Office of Group Benefits PPO plan's array of covered services including:

1. inpatient hospital services:
 - a. pre-certification is required for hospital admissions. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
2. outpatient hospital services:
 - a. the relative therapies require pre-certification;

3. physician services;
4. surgical procedures;
5. clinic services and other ambulatory health care services;
6. prescription drugs;
7. laboratory and radiological services;
8. pre-natal care and pre-pregnancy family services and supplies;
9. inpatient and outpatient mental health services other than those listed in any other provisions of §20503:
 - a. these services include those furnished in a state-operated mental hospital, residential facility or other 24 hour therapeutically-planned structural services. Pre-certification is required for these services. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
 - b. inpatient and outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;
10. durable medical equipment;
11. nursing care services:
 - a. the state employee's health plan only covers home health care services coordinated through case management;
12. dental services;
13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
 - a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
 - b. inpatient days are limited to medically necessary services not to exceed a combined 45 visits per plan year for mental health and substance abuse services;
14. outpatient substance abuse treatment services:
 - a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. All services must be pre-certified;
 - b. outpatient visits are limited to medically necessary services not to exceed a combined 52 visits per plan year for mental health and substance abuse services;
15. case management services:
 - a. these services are only available to children receiving benefits in the state group benefits PPO plan through phase five of LaCHIP. Case management services are only available to assist members in transitioning out of an inpatient care setting;
16. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders:
 - a. physical and occupational therapy is limited to 50 visits per year and speech therapy is limited to 26 visits per year;
17. hospice care:
 - a. the state group benefits PPO plan only covers hospice services coordinated through case management;

18. medical transportation, and:
 - a. medical transportation is limited to emergency ambulance services only;
19. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

§20507. Cost Sharing

A. Phase five of LaCHIP is a cost-sharing program with annual aggregate of premiums, deductibles and co-payments limited to no more than five percent of the family's annual income. Families who have been exempted from cost-sharing as members of federally recognized Native American Tribes will not be subject to co-payments.

B. The following cost-sharing criteria shall apply.

1. Premiums. When family income is between 201 percent and 250 percent of the federal poverty level, families shall be responsible for paying a \$50 per month premium.

a. Premiums are due by the first of each month. If payment is not received by the tenth of the month, the responsible party shall be notified that coverage may be terminated if payment is not received by the twenty-first of the month.

2. Deductibles. A \$150 deductible is applicable to hospital emergency room visits. If the child is admitted, the deductible shall be waived. A separate \$200 deductible is applicable to mental health or substance abuse services. Payment of all deductibles is the responsibility of the family.

3. Co-Insurance or Co-Payments. Enrollees are responsible for paying 10 percent of the contracted rate for most of the covered services rendered, with the exception of the following services:

a. hospice services require payment of 20 percent of the negotiated rate;

b. mental health and substance abuse services require payment of 20 percent of the negotiated rate;

c. home health services require payment of 30 percent of the negotiated rate;

d. prescription drug services require payment of 50 percent of the negotiated rate or \$50 maximum payment, and:

i. after \$1,200 per person per plan year, the enrollee's co-payment shall be \$15 for brand name drugs. There will be no co-payment for generic drugs;

e. ground ambulance transportation requires a \$50 co-payment and licensed air ambulance transportation requires a \$250 co-payment.

C. Non-payment of premiums shall result in disenrollment from LaCHIP, effective the following month. Non-payment of associated co-insurance or deductibles may result in a provider's refusal to render services, but the recipient will retain LaCHIP coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI of the Social Security Act.

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:

Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, January 29, 2008, at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **State Children's Health Insurance Program—Louisiana Children's Health Insurance Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in an estimated net increase in expenses to the state of \$55,257 for FY 07-08, \$1,630,933 for FY 08-09, and \$2,536,318 for FY 09-10 after offset of expenses with the state portion of anticipated premium collections. "Collections are anticipated to be \$15,030 in FY 07-08, \$399,230 in FY 09-10 and \$946,188 in FY 09-10". It is anticipated that \$1,088 (\$544 SGF and \$544 FED) will be expended in FY 07-08 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$283,750 FY 07-08, \$8,181,925 for FY 08-09, and \$14,035,132 for FY 09-10. It is anticipated that \$544 will be collected in FY 07-08 for the federal share of the expense for promulgation of this proposed rule and the final rule. It is anticipated that this proposed rule will increase state revenue collections from the participant's premium payments by approximately \$15,030 in FY 07-08, \$399,230 in FY 08-09, and \$946,188 for FY 09-10.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule implements phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide health insurance coverage to children with family income from 200 percent up to 250 percent of the federal poverty level (approximately 8,230 children potentially eligible). It is anticipated that implementation of this proposed rule will have an increase in program expenditures in LaCHIP by approximately \$352,949 for FY 07-08, \$10,212,088 for FY 08-09 and \$17,517,638 for FY 09-10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on competition and employment.

Jerry Phillips
Medicaid Director
0712#105

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Genetic Diseases—Newborn Heel Stick Screening (LAC 48:V.6303)

Editor's Note: This Notice is being reprinted in its entirety to correct an error upon submission. The original Notice may be viewed in the October 20, 2007 edition of the *Louisiana Register* on pages 2236-2238.

Under the authority of R.S. 40:5 and 40:1299 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend LAC 48:V.6303, A., C., D., and G.

The proposed Rule updates the newborn screening panel as listed in LAC 48:V.6303 to assure it is consistent with Act 2006, No. 754, which required screening for an additional 17 metabolic disorders, congenital adrenal hyperplasia and cystic fibrosis. The proposed Rule also includes other requirements necessary for ensuring proper laboratory testing, follow-up and reporting.

The proposed Rule should have an overall positive impact on the stability, authority, functioning, behavior and personal responsibility of the family unit as the Rule will reflect the pertaining legislation that requires all Louisiana newborns to be screened for these additional genetic diseases. If untreated, all of these additional diseases cause severe disability and the complications with some of them can be fatal.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Services

Chapter 63. Newborn Heel Stick Screening §6303. Purpose, Scope Methodology

A. R.S. 40:1299.1.2.3, requires physicians to test Louisiana newborns for the disorders listed below along with the abbreviations used by the American College of Medical Genetics (ACMG).

1. Disorders of amino acid metabolism:
 - a. Phenylketonuria (PKU);
 - b. Maple Syrup Urine Disease (MSUD);
 - c. Homocystinuria (HCY);
 - d. Citrullinemia (CIT);
 - e. Argininosuccinic Aciduria (ASA);
 - f. Tyrosinemia type I (TYR I).

2. Disorders of fatty acid metabolism:
 - a. Medium Chain Acyl-CoA dehydrogenase Deficiency (MCAD);
 - b. Trifunctional protein deficiency (TFP);
 - c. Very Long-Chain Acyl-CoA Dehydrogenase Deficiency (VLCAD);
 - d. Carnitine Uptake Defect (CUD);
 - e. Long Chain-3-Hydroxy Acyl-CoA Dehydrogenase Deficiency (LCHAD).
3. Disorders of organic acid metabolism:
 - a. Isovaleric Acidemia (IVA);
 - b. Methylmalonic Acidemia (MUT),(CBL A, B);
 - c. Glutaric Acidemia Type 1 (GA1);
 - d. Propionic Aciduria (PROP);
 - e. 3-Hydroxy-3-Methylglutaryl-CoA Lyase (HMG);
 - f. Multiple Carboxylase Deficiency (MCD);
 - g. β -Ketothiolase Deficiency (BKT);
 - h. 3-Methylcrotonyl CoA Carboxylase Deficiency (3MCC).
4. Other metabolic disorders:
 - a. Biotinidase Deficiency (BIOT);
 - b. Galactosemia (GALT).
5. Endocrine disorders:
 - a. Congenital Hypothyroidism (CH);
 - b. Congenital Adrenal Hyperplasia (CAH).
6. Hemoglobinopathies (Sickle Cell diseases):
 - a. SS disease (Sickle Cell Anemia) (Hb SS);
 - b. SC disease (Hb SC);
 - c. S/Beta Thalassemia (Hb S/ β TH);
 - d. Other sickling diseases.
7. Pulmonary disorders:
 - a. Cystic Fibrosis (CF).

B. ...

C. Policy for Pre-Discharge, Repeat Screening and Education to Parents on Repeat Screening

1. Pre-Discharge Screening. All hospitals that have maternity units shall institute and maintain a policy of screening all newborns before discharge regardless of their length of stay in the hospital. Newborns remaining in the hospital for an extended period should be screened initially no later than seven days after birth.

2. Repeat Screening for Specimens Collected before 24 Hours. There is a greater risk of false negative results for specimens collected from babies younger than 24 hours of age. Therefore, newborns screened prior to 24 hours of age must be rescreened at the first medical visit, preferably between one and two weeks of age, but no later than the third week of life. Repeat screening should be arranged by the primary pediatrician; however, it may be done by any primary healthcare provider or clinical facility qualified to perform newborn screening specimen collection.

3. Education to Parents on Repeat Screening. To ensure that newborns who need rescreening (due to initial unsatisfactory specimen or an initial collection performed on a baby less than 24 hours old) actually receive the repeat test, hospitals with maternity units must establish a system for disseminating information to parents about the importance of rescreening.

D. Notification of Screening Results

1. The Genetic Diseases Program follow-up staff notify the appropriate medical provider of the positive

screening result by telephone. Otherwise, submitters should receive the result slip from the State Public Health Laboratory within two weeks after collection. Results are also available to submitters 24 hours a day, 365 days a year through the Voice Response System with Fax (VRS) which is accessed by using a touch tone telephone. Information on using VRS can be obtained by calling the Genetic Diseases Program Office at (504) 219-4413. If results are not available, medical providers may fax in their requests to the following numbers: (504) 219-4694 (Public Health Biochemistry Laboratory) or (504) 219-4452 (Genetics Office). To assist the pediatrician's office in the retrieval of the results on the initial specimen of the infant at the first medical visit, the phlebotomist or nurse collecting the initial specimen should tear off the blue carbon of the Lab-10 form and give this to the parent. The parent should be instructed to bring this copy to the first medical visit.

E. - F. ...

G. Acceptable Newborn Screening Testing Methodologies and Procedures for Medical Providers Not Using the State Laboratory. Laboratories performing or intending to perform the state mandated newborn screening battery on specimens collected on Louisiana newborns must meet the conditions specified below pursuant to R.S. 40:1299.1.

1. The testing battery must include testing for the disorders listed in Subpart A above.

2. - 4. ...

5. Only the following testing methodologies are acceptable without prior approval.

Disease	Testing Methodology
Disorders of Amino Acid Metabolism Disorders of Fatty Acid Metabolism Disorders of Organic Acid Metabolism (Specific disorders include those as listed under part A)	Tandem Mass Spectrometry (MS/MS)
Biotinidase Deficiency	Qualitative or Quantitative Enzymatic Colorimetric or Fluorometric
Galactosemia	Galt enzyme assay Total Galactose
Hemoglobinopathies (Sickle Cell Diseases)	Cellulose acetate/citrate agar Capillary isoelectric focusing (CIEF) Gel isoelectric focusing (IEF) High Pressure Liquid Chromatography (HPLC) DNA Mutational Analysis Sickle Dex - NOT Acceptable Controls must include: F, A, S, C, D, E If controls for hemoglobins D and E are not included in the 1st tier testing methodology, then the 2 nd tier testing must be able to identify the presence of these hemoglobins. Result Reporting: by phenotype Positive/negative is NOT acceptable
Congenital Hypothyroidism	Radioimmunoassay (RIA), Fluorescent Immunoassay (FIA), Enzyme Immunoassay (EIA) methods for T4 and/or Thyroid Stimulating Hormone (TSH) which have been calibrated for neonates
Congenital Adrenal Hyperplasia	17 hydroxyprogesterone (17OHP)

Disease	Testing Methodology
Cystic Fibrosis	Primary: Immunoreactive Trypsinogen; Second Tier: DNA Qualitative Sweat Conductivity Test is NOT acceptable as a primary screening methodology. Confirmatory Test Methodologies: Quantitative Pilocarpine Iontophoresis Sweat Chloride Test Qualitative Sweat Conductivity Test is NOT recommended.
New Food and Drug Administration approved methodologies may be used if found to be acceptable by the Genetic Diseases Program. Approval should be requested in writing 60 days before the intended date of implementation (see Genetic Diseases Program mailing address below). Requests for approvals will be based on documentation of FDA approval and an in-house validation study of said methodology.	

6. - 7. ...

8. **Mandatory Reporting of Positive Test Results Indicating Disease**

a. To ensure appropriate and timely follow-up, positive results must be reported, along with patient demographic information as specified below to the Genetic Diseases Program Office by fax at (504) 219-4452. Receipt of faxed results must be verified by call to the Genetics Office at (504) 219-4413.

b. Described below are specific time deadlines after data reduction and interpretation for reporting positive results indicating probable disease to the Genetics Office. Laboratories must make arrangements with the Genetics Office for reporting after hours, weekends and holidays for positive results from tandem mass spectrometry and the assays for galactosemia, congenital adrenal hyperplasia and congenital hypothyroidism. Notification of presumptive positive results for biotinidase deficiency, sickle cell disease and cystic fibrosis will be made at the beginning of the next business day.

i. Metabolic disorders identified by tandem mass spectrometry and for galactosemia—report results by 2 hours.

ii. Biotinidase Deficiency—report results within 24 hours.

iii. Sickle Cell Disease—report results of FS, FSC, FSA from initial specimens within 24 hours.

iv. Congenital Hypothyroidism—report within 24 hours.

v. Congenital Adrenal Hyperplasia—report within 2 hours.

vi. Cystic Fibrosis—report within 24 hours.

8.c. - 11. ...

H. **The Newborn Heel Stick Screening Policy for Result Reporting and Repeat Screening Post Transfusion**

1. Whenever possible, a specimen should be collected prior to transfusion.

2. Repeat testing recommended: 3 days after transfusion and 90 days after last transfusion.

3. If the specimen was not collected before transfusion, the laboratory reporting the results to the submitter must indicate that transfusion may alter all newborn screening results and include the above times for repeat screening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:1131 (October 1992), LR 20:1386 (December 1994), LR 23:301 (March 1997), LR 27:545 (April 2001), LR 29:1490 (August 2003), LR 32:248 (February 2006), LR 34:

Family Impact Statement

1. **The Effect on the Stability of the Family.** This proposed Rule reflects the intent of Act 2006, No. 754 which added 17 disorders to the newborn screening testing battery. Better understanding of the requirements involved in newborn screening by the medical providers will translate to enhanced services to patients and their families. Therefore, there should be a positive effect on the stability of the family.

2. **The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children.** There should be no deleterious effect on the authority and rights of the parents regarding the education and supervision of their children.

3. **The Effect on the Functioning of the Family.** For families affected by one of these genetic diseases the effect on the functioning of the family should be positive as diagnosis and treatment can be provided much earlier. Therefore, problems associated with the disease will not become catastrophic debility or fatal health problems.

4. **The Effect on the Family Earnings and Family Budget.** Families will not experience an extra cost for the additional testing. Affected families will incur less cost as better management of their family member's disease will mean less aggressive and expensive medical procedures.

5. **The Effect on the Behavior and Personal Responsibility of Children.** No adverse impact is anticipated on the behavior and personal responsibility of children.

6. **The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule.** For over 40 years, the Office of Public Health's laboratory in collaboration with the Genetic Disease Program has conducted this service.

Interested persons may submit written comments on the proposed Rule by e-mail or by fax to Charles Myers, GSW, Administrator of the Louisiana Genetic Diseases Program, Office of Public Health/DHH, until 4:30 pm on January 9, 2008. The e-mail address is Charlie@dhh.la.gov and the fax number is (504) 219-4452.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Genetic Diseases—Newborn Heel Stick Screening

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule updates the newborn screening panel as listed in LAC 48:V.6303 to assure the rule is consistent with Act 2006, No. 754, which required screening for an additional 17 metabolic disorders, congenital adrenal hyperplasia and cystic fibrosis. The proposed rule also includes other

requirements necessary for ensuring proper laboratory testing, follow-up and reporting.

The testing for cystic fibrosis was implemented July 2, 2007. The total estimated cost for this testing is \$478,695 for FY 2007-08, \$491,836 for FY2008-09, and \$505,393 for FY 2009-10. This cost is for one (1) Lab Scientist position to conduct the testing, test kits, contracts for confirmatory testing, and on-call consultation. OPH will fund these costs with the Medicaid collections that will be generated from the billing of the cystic fibrosis testing of eligible infants. There are no additional costs associated with the testing of the 17 metabolic disorders and the adrenal hyperplasia because the testing for those disorders was implemented in FY 06-07. The Department of Health and Hospitals Medicaid Program will incur the cost of the 30 percent match of state funding to draw down the 70 percent federal funds that make up Medicaid reimbursement for this service. The amount of state funds required for the match is projected as follows for the three fiscal years: FY 2007-08 at \$143,608; FY 2008-09 at \$147,551; FY 2009-10 at \$151,618.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in Medicaid collections from the billing of cystic fibrosis tests performed on Medicaid eligible infants. Based on \$13.92 per test, the billings are expected to generate \$478,695 for FY 2007-08, \$491,836 for FY 2008-09, and \$505,393 for FY 2009-10.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The early detection and treatment of an infant with cystic fibrosis results in meaningful benefits as studies have shown some complications will be delayed and life expectancy extended.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment

Sharon Howard
Assistant Secretary
0712#026

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

**Prevention and Control of Yellow Fever
(LAC 51:II.905)**

Editor's Note: This Notice is being reprinted in its entirety to correct an error upon submission. The original Notice may be viewed in the October 20, 2007 edition of the *Louisiana Register* on pages 2238-2239.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend (LAC 51, Part II, Chapter 9, §905, 7). The proposed Rule changes the storage requirements as listed in LAC 51, Part II, Chapter 9, §905, 7 to assure The proposed Rule change provides that certified yellow fever vaccine centers in Louisiana must store the vaccine at refrigeration temperatures [between 2°-8°C (35° - 46°F)] until used. The previous requirement and the requirement in the present Sanitary Code is that the vaccine must be kept frozen until used. This action is required by the

change in the storage requirement of Yellow Fever Vaccine issued by the vaccine manufacturer in April 2005 and approved by the United States Food and Drug Administration.

Title 51

PUBLIC HEALTH—GENERAL

Part II. Control of Diseases

Chapter 9. Prevention and Control of Yellow Fever

§905. Yellow Fever Regulations

A. - A.6. ...

7. "The Center must maintain adequate refrigeration to assure that the yellow fever vaccine will be kept in a refrigerated state with temperatures as recommended by the vaccine manufacturer and included in the storage recommendations of the vaccine package insert. Once the vaccine has been removed from refrigeration and reconstituted, it must be administered within 60 minutes. Any remaining unrefrigerated and unused vaccine must be destroyed." This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

8. - 14. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5 and further in full cooperation with the United States Public Health Service requirements for international travel.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), LR 34:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule will have no effect on the functioning of the family.

4. The Effect on the Family Earnings and Family Budget. The proposed Rule will have no effect on family earnings or budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule will have no effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments until 4:30 p.m., January 9, 2008, to Dr. Louis Trachtman, Louisiana Office of Public Health, P.O. Box 60630, New Orleans, LA 70160-0630.

Roxane A. Townsend, M.D.
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prevention and Control of Yellow Fever**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this rule is to amend LAC 51, Part II, Chapter 9, §905 to change the storage requirement for yellow fever vaccine centers in Louisiana. In April 2005, the storage requirements for the yellow fever vaccine was changed to require refrigeration (at temperatures between 2°-8°C (35°-46°F) until used. The requirement in the present Sanitary Code is that the vaccine must be kept frozen until used.

The only cost associated with this rule change is approximately \$200 for publishing the notice of intent and the final rule in the Louisiana Register.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Sharon Howard
Assistant Secretary
0712#027

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health
Center for Environmental Health Services**

Marine and Freshwater Animal Food Products
(LAC 51:IX.127, 145, 319, 321, and XXIII.1109)

Editor's Note: This Notice is being reprinted in its entirety to correct an error upon submission. The original Notice may be viewed in the October 20, 2007 edition of the *Louisiana Register* on pages 2239-2241.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer acting through the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, pursuant to the authority in R.S. 40:4(A)(1), R.S. 40:4(A)(6), R.S. 40:5, and R.S. 40:5.3, intends to amend and revise Title 51, Part IX (Marine and Fresh Water Animal Food Products), and Title 51 Part XXIII (Retail Food Establishments). The proposed adoption of an equivalent consumer advisory statement from the U.S. Food and Drug Administration (FDA) 2005 Food Code shall be provided when shellstock is intended for raw consumption and shall coincide with the National Shellfish Sanitation Program (NSSP) 2005 Model Ordinance. The NSSP is the federal/state cooperative program recognized by the FDA and the Interstate Shellfish Sanitation Conference (ISSC) for the sanitary control of shellfish produced and sold for human consumption. Technical changes to the Sanitary Code are being made in Sections 127 and 321 of Part IX.

**Title 51
PUBLIC HEALTH—SANITARY CODE
Part IX. Marine and Fresh Water
Animal Food Products**

**Chapter 1. Shellfish Growing Areas
§127. Qualification for Laboratories Conducting
Analysis of Shellfish Growing Waters for the
Louisiana State Shellfish Sanitation Program
[formerly paragraph 9:002-13]**

A. - G. ...

H. The following constitute minimal quality assurance procedure requirements for the laboratory.

1. - 12. ...

13. Glass/mercury thermometer calibration should be checked quarterly against a reference National Institute of Standards and Technology (NIST) thermometer or one which meets the requirements of NIST monograph 150.

14. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40: 5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1297 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:

**§145. Permits Required for Transplanting
[formerly paragraph 9:004-2]**

A. ...

1. No permittee or boat captain may serve on any vessel subject to this permit who has been cited or found guilty of violations relative to the harvesting of shellfish within three years of the application date; provided, however that said permittee or boat captain may receive a waiver of this condition with regard to those citations which did not result in a conviction upon the appropriate showing being made to the Department of Wildlife and Fisheries.

2. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5 (2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1300 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:

**Chapter 3. Preparation and Handling of Seafood for
Market**

**§319. Seafood (Except Shellstock) Shipping
Requirements
[formerly paragraph 9:042]**

A. - C. ...

D. [Formerly paragraph 9:045] All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at the point of sale with either of the following wording:

1.a. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED"; or

b. "CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS."

D.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S.40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:

§321. Shipping Shell-Stock Requirements
[formerly paragraph 9:047]

A. - B. ...

C. [Formerly paragraph 9:049] Bulk shipments of shell-stock by boat may be made in cases where the tongers or dredgers obtain the shellfish directly from growing areas and sell them to various consumers direct without shucking. Where shell-stock is shipped by boat for the shell trade, it shall be labeled as specified in §319. If shellfish shipped by boat are intended for processing in shucking houses, records shall be kept by the boat operator in a book provided for such purposes only, showing the sources and quantity of shellfish, date and local waters where the shellfish were taken, license or certificate number of person or persons from to whom sold. These records shall be retained for 12 months.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1), R.S. 40:5(2)(3)(5)(7)(15), and R.S. 40:5.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1307 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:

Part XXIII. Retail Food Establishments

Chapter 11. Food Supplies

§1109. Raw Shellfish Consumer Information Message
[formerly paragraph 22:08-5.1]

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with either of the following wording:

1. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED"; or

2. "CONSUMING RAW OR UNDERCOOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOODBORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS."

B. In addition, either of the above messages in Subsection A of this Section must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

C. In addition, one of the following messages must appear on the tag of each sack or other container of unshucked raw oysters:

1. "THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED";

2. "RETAILERS, INFORM YOUR CUSTOMERS— Consuming raw or undercooked meats, poultry, seafood,

shellfish or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions"; or

3. equivalent wording as approved by the state authority (see LAC 51:IX.323.B.6.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.A.(1). and R.S. 40:5(2)(3)(5)(7)(15).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:319 (February 2002), amended LR 28:1412 (June 2002), amended by the Department of Health and Hospitals, Office of Public Health, Center for Environmental Health Services, LR 34:

Family Impact Statement

1. The Effect on the Stability of the Family. There will be no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. There will be no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. There will be no effect on the functioning of the family.

4. The Effect on the Family Earnings and Family Budget. There will be no effect on family earnings or budget.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There will be no effect on the ability of the family or a local government to perform the function as contained in the proposed rule.

All interested persons are invited to submit written comments on the proposed regulation. Persons may submit written comments no later than January 9, 2008 by 4:30 p.m., to David Guilbeau, Commercial Seafood Program Administrator, Office of Public Health, 628 N. Fourth Street P.O. Box 4489 Baton Rouge, LA 70821.

Roxane A. Townsend, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Marine and Freshwater
Animal Food Products

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend Title 51, Part IX (Marine and Fresh Water Animal Food Products) and Title 51 Part XXIII (Retail Food Establishments) to adopt the equivalent consumer advisory statement from the U.S. Food and Drug Administration (FDA) Food Code and the National Shellfish Sanitation Program (NSSP) Model Ordinance to accommodate those harvesters who use the federal standard or the NSSP Ordinance. In addition, this rule removes "crew member" from the regulation that currently prohibits a permittee from obtaining an oyster transplant permit if the permittee, the boat captain, or the crew member have been cited or found guilty of violations relative to the harvesting of shellfish. Lastly, this rule makes technical language changes to sections 127 and 321.

The proposed rule changes will result in an estimated cost of \$325 to publish the notice of intent and the final rule in the Louisiana Register. This cost is routinely covered in the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units anticipated as a result of promulgation of this regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits to directly affected persons or non-governmental groups anticipated as a result of promulgation of this regulation, other than the benefit to those individuals who have been cited for violations and can now be hired and those employers who would hire them.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

By removing the word crewmember from the oyster transplant regulation, the industry would be in a better position of hiring additional employees for this type of operation.

Sharon Howard
Assistant Secretary
0712#028

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Registration, Training and Uniforms
(LAC 46:LIX.301, 405, and 701)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary gives notice that rulemaking procedures have been initiated to amend the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX:301, 405, and 701.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed Rules of the board, Standards of Practice and Code of Ethics of the Louisiana State Board of Home Inspectors should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rules.

These proposed regulations are to become effective upon publication in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than December 10, 2007, at 4:30 p.m. to Wayne R. Rogillio, Executive Secretary,

Louisiana State Board of Private Security Examiners, 15703 Old Hammond Highway, Baton Rouge, LA 70816.

Wayne R. Rogillio
Executive Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Registration, Training, and Uniforms**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no significant implementation costs to state or local governmental units. These rule modifications only relate to minor qualification changes, technical adjustments to the training requirements and uniform requirements of private security registration cards applicants.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections of state or local governmental units since these rules only relate to minor qualification changes, technical amendments to the training requirements and uniform requirements of private security registration cards applicants.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent that current Louisiana private security companies employ numerous individuals with company uniforms, those uniforms will need to be modified due to these proposed rule changes. The specific costs of those changes are unknown.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no significant effect on competition and employment. The proposed changes to the training requirements are technical and will not impact those individuals/companies seeking registration.

Wayne R. Rogillio
Executive Secretary
0712#006

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Drug Free Workplace and Drug Testing
(LAC 61:I.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Executive Orders KBB 2005-08 and 2005-11 and R.S. 49:1001 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.101, which governs drug testing in the workplace.

The amended Rule provides additional definitions, detailed explanations, and the consequences of violating this regulation. The department has incorporated an alcohol-free workplace in conjunction with the already established drug-free workplace, clarified the actions that shall take place in the event that an employee violates the regulation, provided an exception from pre-employment drug testing for

employees transferring from one executive agency to another without a lapse in service, and updated the list of positions that are classified as safety-sensitive or security-sensitive.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 1. Office of the Secretary

§101. Drug Free Workplace and Drug Testing

A. Introduction and Purpose

1. The employees of the Department of Revenue are among the state's most valuable resources, and the physical and mental well-being of our employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, affecting their productivity, health and safety, dependents, and co-workers, as well as the general public.

2. The state of Louisiana and the Department of Revenue have a long-standing commitment to working toward a drug-free, alcohol-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws that provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Orders KBB 2005-08 and 2005-11 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

B. Applicability

1. This regulation applies to all Department of Revenue employees including appointees and all other persons having an employment relationship with this agency.

C. Definitions

Controlled Substances—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, and any other person having an employment relationship with this agency, regardless of the appointment type (e.g., full time, part time, temporary, restricted, detailed, job appointment, etc.).

Illegal Drug—any drug that is not legally obtainable or that has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed. For purposes of this regulation, alcohol consumption at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services will classify alcohol as an illegal drug.

Public Vehicle—any motor vehicle, water craft, air craft or rail vehicle owned or controlled by the state of Louisiana.

Random Testing—testing randomly performed on employees holding a safety-sensitive or security-sensitive

position. The secretary shall periodically call for a sample of such employees, selected at random by a computer generated random selection process.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this regulation.

Safety-Sensitive or Security-Sensitive Position—a position determined by the secretary to contain duties of such nature that the compelling state interest to keep the incumbent drug-free and alcohol-free outweighs the employee's privacy interests. Positions considered as *safety-sensitive* or *security-sensitive* are listed in §101.J. These positions were determined with consideration of statutory law, jurisprudence, and the practices of this agency. Examples of *safety-sensitive* and *security-sensitive positions* are as follows:

a. positions with duties that are required or are authorized to carry a firearm;

b. positions with duties that require operation or maintenance of any heavy equipment or machinery, or the supervision of such an employee;

c. positions with duties that require the operation or maintenance of a public vehicle, or the supervision of such an employee.

Secretary—Secretary of the Department of Revenue.

Testing with Cause—testing performed on employees on the basis of reasonable suspicion, post accident, rehabilitation monitoring, or possession of illegal drugs or drug paraphernalia while in the workplace.

Under the Influence—for the purposes of this regulation, a drug, chemical substance, or the combination of a drug or chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech, or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, and facilities, including all vehicles and equipment, whether owned, leased, or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business in addition to any location from which an individual conducts agency business while such business is being conducted.

D. Drug-Free Workplace Policy

1. It shall be the policy of the Department of Revenue to maintain a drug-free workplace and a workforce free of substance abuse.

2. Employees are prohibited from reporting to work or performing work with the presence in their bodies of illegal drugs, controlled substances, designer (synthetic) drugs, or alcohol at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services.

3. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs,

illegal drugs, and alcohol at the work site and while on official state business, on duty or on call for duty.

E. Conditions Requiring Drug Tests. Drug and alcohol testing shall be required under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to a drug and alcohol test if there is reasonable suspicion, as defined in §101.C.*Reasonable Suspicion*, that the employee is using illegal drugs or is under the influence of alcohol while on duty.

2. Post Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug and alcohol test if the accident:

- a. involves circumstances leading to a reasonable suspicion of the employee's drug or alcohol use; or
- b. results in a fatality.

3. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency following an incident involving substance abuse shall be required to submit to periodic drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the Director of the Human Resources following a job offer contingent upon a negative drug-testing result. A prospective employee who tests positive for the presence of drugs in the initial screening or who fails to submit to drug testing shall be eliminated from consideration for employment. Employees transferring to the department from other state agencies without a break in service are exempt from pre-employment testing.

5. Safety-Sensitive and Security-Sensitive Positions

a. Appointments and Promotions. Each employee who is offered a safety-sensitive or security-sensitive position as defined in §101.J shall be required to pass a drug test before being placed in such position, whether through appointment or promotion. All such testing shall, if applicable, occur during the selected employee's work schedule.

b. Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the secretary, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if applicable, occur during the selected employee's work schedule.

6. Employees in Possession of Illegal Drugs. Any employee previously found in possession of suspected illegal drugs or drug paraphernalia in the workplace shall be required to submit to subsequent random drug tests.

F. Drug and Alcohol Testing Procedure

1. Drug testing pursuant to this regulation shall be conducted for the presence of any illegal drugs, including, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. The Department of Revenue reserves the right to test its employees for the presence of alcohol, any other illegal drugs, or controlled substances when there is reasonable suspicion to do so. For purposes of this regulation, alcohol consumption at or above the initial testing levels and

confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services will classify alcohol as an illegal drug.

2. The Director of Human Resources and the secretary shall be involved in any determination that one of the above-named conditions requiring drug and alcohol testing exists. All recommendations for drug testing must be approved by the secretary. Upon final determination by the responsible officials, the Director of the Human Resources shall notify the supervisor of the employee to be tested, and the supervisor shall immediately notify the employee where and when to report for the testing.

3. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

a. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimen and the privacy of the donor. The Director of Human Resources shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct supervision. All direct observation shall be conducted by a person of the same-sex at the collection site.

b. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

c. Testing shall be performed by a Substance Abuse Mental Services Health Administration (SAMSHA) certified laboratory.

d. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

e. The laboratory shall use a concentration cut-off of 0.08 or more for the initial positive finding in testing for alcohol.

f. All positives reported by the laboratory must be confirmed by gas chromatography/mass spectrometry.

4. All confirmed positive results of alcohol and drug testing shall be reported by the laboratory to a qualified medical review officer.

G. Confidentiality

1. All information, interviews, reports, statements, memoranda, or test results received through this drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant.

2. All records regarding this policy shall be maintained by the Director of Human Resources in a secured, confidential file.

H. Responsibilities

1. The secretary is responsible for the overall compliance with this regulation and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this regulation and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs for testing, and the effectiveness of the program by November 1 of each year.

2. The Director of the Human Resources is responsible for administering the drug and alcohol testing program; recommending to the secretary when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; collecting appropriate information necessary to agency defense in the event of legal challenge; and providing the secretary with the data necessary to submit a detailed report to the Office of the Governor as described above.

3. All supervisory personnel are responsible for reporting to the Director of Human Resources any employee they suspect may be under the influence of any illegal drug, alcohol, or chemical substance. Supervisory personnel are also responsible for assuring that each employee under their supervision understands or is given the opportunity to understand and have questions answered about this regulation's contents.

I. Violation of the Regulation

1. All initial screening tests with positive results must be confirmed by a second test with the results reviewed by a medical review officer.

a. A breath test resulting in 0.08 or greater alcohol concentration level will be considered an initial positive result.

b. If a positive test result occurs, the confirmation test will be performed within 30 minutes, but not less than 15 minutes, of completion of the initial screening test.

c. Urine samples will be tested using the split sample method, with a confirmation test performed on the second half of the sample in the event that a positive test result occurs.

2. If the confirmation test produces positive results, the medical review officer will contact the employee/applicant prior to posting the results of the test as positive.

a. The employee/applicant will have the opportunity to verify the legitimacy of the result, i.e., producing a valid prescription in his/her name.

b. If the employee applicant is able to successfully verify the legitimacy of the positive results, the medical review officer will confirm the result as negative and report the results to the department.

c. If the employee is unable to successfully verify the legitimacy of the positive results, the employee shall be subject to disciplinary action up to and including possible termination of employment, as determined by the secretary.

3. Each violation and alleged violation of this regulation will be handled individually, taking into account all data, including the risk to self, fellow employees, and the general public.

4. Any employee whose drug test is confirmed positive may make a written request for access to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings within seven working days.

5. The secretary may, but shall not be required to, allow an employee whose drug test is certified positive by the medical review officer the opportunity to undergo

rehabilitation without termination of employment, subject to the employee complying with the following conditions.

a. The employee must meet with an approved chemical abuse counselor for a substance abuse evaluation.

b. The employee must release the substance abuse evaluation before returning to work.

c. The employee shall be screened on a periodic basis for not less than 12 months nor more than 60 months.

d. The employee will be responsible for costs associated with follow-up testing, return to duty testing, counseling and any other recommended treatment.

6. Positive post accident or return to duty tests will result in the employee's immediate dismissal.

7. Any employee who refuses to submit to a urine test for the presence of illegal drugs or a breath test for the presence of alcohol shall be subject to the consequences of a positive test.

8. In the event that a current or prospective employee receives a confirmed positive test result, the employee may challenge the test results within 72 hours of actual notification.

a. The employee's challenge will not prevent the employee from being placed on suspension pending the investigation until the challenge is resolved.

b. The employee may submit a written explanation of the reason for the positive test result to the medical review officer.

c. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

9. In the event that a current or prospective employee remains unable to provide a sufficient urine specimen or amount of breath, the collector or Breath Alcohol Technician (BAT) must discontinue testing and notify the Director of Human Resources of their actions.

a. In both instances, whether the discrepancy is an insufficient urine specimen or amount of breath, the Director of Human Resources shall promptly inform the secretary.

b. The secretary shall then direct the employees to have a medical evaluation, at the expense of the Department of Revenue, by a licensed physician who possesses expertise in the medical issue surrounding the failure to provide a sufficient specimen.

c. This medical evaluation must be performed within five working days after the secretary is notified of the employee's inability to provide a sufficient specimen.

d. The physician shall provide the secretary with a report of his/her conclusions as to whether the employee's inability to provide a sufficient urine specimen or amount of breath is genuine.

e. If the physician determines that the employee's inability to provide a sufficient urine specimen or amount of breath is not genuine, the employees will be subject to the consequences of a positive test.

J. Safety-Sensitive or Security-Sensitive Positions to be Randomly Drug Tested

1. All candidates for the following positions are required to pass a drug test before being placed in the position, whether through appointment or promotion and

employees who occupy these positions are subject to random drug/alcohol testing:

- a. Alcohol Beverage Control Investigator Supervisor
- b. Alcohol Beverage Control Investigator
- c. Alcohol Beverage Control Manager
- d. Alcohol Beverage Control Staff Officer
- e. Alcohol Beverage Control Special Investigator
- f. Alcohol and Tobacco Control Agent 1-6
- g. Alcohol and Tobacco Control Commissioner
- h. Alcohol and Tobacco Control Deputy Commissioner
- i. Alcohol and Tobacco Control Financial Investigator 1-2
- j. Alcohol and Tobacco Control Special Investigator 1-2
- k. Alcohol and Tobacco Control Specialist
- l. Special Investigation Division—Assistant Director
- m. Special Investigations Division—Director
- n. Special Investigations Division—Revenue Agent

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AUTHORITY NOTE: Promulgated in accordance with Executive Orders KBB 2005-08 and 2005-11 and R.S. 49:1015 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 25:1523 (August 1999); amended LR 34:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.
2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. Implementation of this proposed Rule will have no effect on the functioning of the family.
4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.
5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.
6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Erica N. Jefferson, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by Wednesday, January 30, 2008. A public hearing will be held on Thursday January 31, 2008 at 9 a.m. in the River Room on the Seventh Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Leonore Heavey
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Drug Free Workplace and Drug Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These proposed amendments to LAC 61:I.101 provides additional definitions, detailed explanations, and the consequences of violating this regulation. The department has incorporated an alcohol-free workplace in conjunction with the already established drug-free workplace. The amended rule also clarifies the actions that shall take place in the event that an employee violates the regulation, and provides an exception from pre-employment drug testing for employees transferring from one executive agency to another without a lapse in service. Finally, the list of positions that are classified as safety-sensitive and security-sensitive has been updated.

Implementation of these proposed amendments should result in fewer random drug tests for employees in safety-sensitive positions, which will have minimal impact on the agency's costs and no effect on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of these proposed amendments will have no impact on the revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These proposed amendments will have negligible effect on the costs or economic benefits of agency employees or drug test providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on competition or employment.

Cynthia Bridges
Secretary
0712#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Credits for Wind or Solar Energy Systems (LAC 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1907 relative to income tax credits for wind or solar energy systems.

Act 371 of the 2007 Regular Session of the Louisiana Legislature enacted R.S. 47:6026 to allow an income tax credit for the purchase and installation of a wind or solar energy system by a Louisiana homeowner or the owner of a residential rental apartment project located in the state. The section was redesignated as R.S. 47:6030 pursuant to the statutory revision authority of the Louisiana State Law Institute. This Rule will clarify the application of the credits for those taxpayers who purchase and install wind or solar energy systems.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed adoption of LAC 61:I.1907, regarding income tax credits for wind or solar energy systems should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family.
2. the authority and rights of parents regarding the education and supervision of their children.
3. the functioning of the family.
4. family earnings and family budgets.
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., January 24, 2008. A public hearing will be held on January 25, 2008, at 10 a.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Income Tax Credits for Wind or Solar Energy Systems**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs to the Department of Revenue for the proposed rules include computer system modifications (\$72,900), coding for the Revenue Processing Center (\$2,500), and forms and instruction changes (\$2,500). The Legislature did not specifically appropriate funding to the Department of Revenue to administer these proposed credits. As such, the Department of Revenue will administer these tax credits within existing resources. Implementation of the proposed rules will have no costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State general fund revenues will decline by unknown amounts in Fiscal Year 2007-2008 and thereafter due to the proposed rules. There is no way to estimate how many individuals and companies might seek tax credits for wind or solar energy systems. Although there is a similar credit at the federal level, it was not effective until the 2006 tax year and no federal statistics are available. However, typical solar energy systems range in costs from \$10,000 to \$40,000, and typical wind energy systems range in cost from \$25,000 to \$35,000. Based on these amounts and the regulation's limitation to the first \$25,000 of costs, the credit provided by this regulation would be \$5,000 to \$12,500 per system. The credit is refundable; so all credits earned each year will be realized against state tax liabilities in the year of purchase or installation. There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed tax credits will effectively reduce the cost of wind or solar energy systems up to \$25,000 in cost by fifty percent; and will in aggregate increase receipts of sellers, distributors, and sellers of these systems proportional to the rate of tax credits granted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have minimal effect on competition or employment in Louisiana because wind and solar energy systems are not currently manufactured in the state. Sellers, distributors, and installers of such wind and solar systems will likely see an increase in their receipts and possibly their employment due to the effective price reduction offered by the proposed credits.

Cynthia Bridges
Secretary
0712#066

Robert E. Hosse
Staff Directory
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises (LAC 61:I.1305)

Under the authority of R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1305 relative to penalties associated with the failure to use the proper Nonresident Professional Athlete tax return IT-540B-NRA.

Problems have occurred with nonresident professional athletes filing incorrect returns. This Rule will impose a penalty on nonresident athletes if they fail to file the proper return, IT-540B-NRA.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed amendment of LAC 61:I.1305, relative to penalties associated with the failure to use the proper Nonresident Professional Athlete tax return IT-540B-NRA should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family.
2. the authority and rights of parents regarding the education and supervision of their children.
3. the functioning of the family.
4. family earnings and family budgets.
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy

Services Division, Office of Legal Affairs, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., January 24, 2008. A public hearing will be held on January 25, 2008, at 1 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Income Tax Schedule Requirement for
Certain Nonresident Professional Athletes and
Professional Sports Franchises**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Implementation costs to the Department of Revenue for the proposed rule will be negligible. Implementation of the proposed rule will have no costs or savings to local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

State general fund revenues will increase by an unknown amount in Fiscal Year 2007-2008 and thereafter due to penalties in the proposed rule. There is no way to estimate how many nonresident professional athletes file incorrect returns. There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed penalties will effectively increase the costs associated with improperly filing for nonresident professional athletes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed regulation should have a negligible effect on competition or employment in Louisiana because nonresident professional athletes are employed by sports franchises outside the state.

Cynthia Bridges
Secretary
0712#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Tax Commission**

Ad Valorem Taxation
(LAC 61:V.101, 103, 109, 113, 118, 121, 211, 213, 301-309,
703, 901, 907, 1103, 1305, 1307, 1503, 2501, 2503, 2711,
3101, 3103, 3105, 3106, 3107, 3503 and 3515)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal Sections of the Louisiana Tax Commission Real/Personal Property rules and regulations for use in the 2008 (2009 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule Section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of this proposed Rule will have no effect on the ability of the family or local government to perform this function.

Interested persons may submit written comments on the proposed Rule until 4 p.m., January 9, 2008, to Vanessa LaFleur, General Counsel, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

Elizabeth L. Guglielmo
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated state costs or savings associated with the proposed rules. The LTC Rules and Regulations Manual is available on the agency's website at no charge. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Local Governmental Units

These revisions will generally increase certain 2008 real and personal property assessments for property of similar age and condition in comparison with equivalent assessments in 2007. Composite multiplier tables for assessment of most personal property will increase by an estimated 3%. Specific valuation tables for assessment of pipelines will generally decrease by an estimated 13%, oil and gas wells will generally increase by an estimated 54% and drilling rigs will generally increase by an estimated 16%. The net effect of these revisions is estimated to increase assessments by 9.4% and tax collections by \$58,533,800 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units

as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

State Governmental Units

Under authority granted by R.S. 47:1838, the Tax Commission will receive state revenue collections generated by assessment service fees estimated to be \$344,150 from public service companies and \$126,270 from financial institutions and insurance companies all of which are assessed by the Tax Commission.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be higher in 2008 than in 2007. Specific assessments will depend on the age and condition of the property subject to assessment.

The estimated costs that will be paid by affected persons as a result of the assessment and user service fees as itemized above total \$470,000 to be paid by public service property owners, financial institutions and insurance companies for 2007/2008.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for our updates, the impact is thought to be minimal.

Elizabeth L. Guglielmo
Chairman
0712#048

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Public Works

Louisiana Port Construction and Development Priority
Program (LAC 56:III.Chapter 21)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 21 of Subpart 2 of Part III of Title 56 entitled "Louisiana Port Construction and Development Priority Program," in accordance with the provisions of R.S. 34:3451-3463.

Title 56

PUBLIC WORKS

Part III. Flood Control and Water Management

Subpart 2. Port Construction and Development Priority Program

Chapter 21. Louisiana Port Construction and Development Priority Program

§2101. Definitions

[Formerly §2103]

Committee—Joint Legislative Committee on Transportation, Highways and Public Works.

Council—Legislative Audit Advisory Council.

Deep Draft Port—a port capable of accommodating vessels of at least 25 feet of draft and of engaging in foreign commerce.

Department—the Louisiana Department of Transportation and Development.

Joint Legislative Committee—see *Committee*.

Port—a harbor town or city where ships may take on or discharge cargo.

Port Authority—the governing body of any port area or port, harbor, and terminal district.

Procedural Manual—a manual entitled, Louisiana Port Construction and Development Priority Program Procedural Manual for Funded Projects, which is used to implement projects funded by the program.

Program—Louisiana Port Construction and Development Priority Program.

Project—that activity that derives benefits to the state after an investment of program and port funds. The port funds may include federal monies.

Project Agreement—the agreement between the department and port authority that states the authorities and responsibilities of each party in implementing a project that is funded in part by the Louisiana Port Construction and Development Program. The format is as shown in the procedural manual.

Shallow Draft Port—a port that is not capable of accommodating vessels of 25 feet of draft or is not engaged in foreign commerce.

Total Project—that activity that derives benefits to the state after an investment of program, port, and other public and private funds.

Transportation Trust Fund—a fund created by a constitutional amendment passed by the voters on October 7, 1989 which dedicated \$16 of the gasoline/motor fuel tax to construction and maintenance of state and federal highways and bridges, statewide flood control, ports, airports, transit, state police for traffic control, and parish roads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:750 (July 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:

§2103. Creation of Priority Program [Formerly §2101]

A. Creation of Priority Program

1. The Louisiana Port Construction and Development Priority Program was created by Act 452 of the 1989 Regular Session. Before this program, the state funded ports projects through the Capital Outlay Program without requiring any feasibility studies. From 1977 to 1984 Louisiana expended more funds for ports than any other state in the union. For this period Louisiana spent \$25,985,000 on shallow draft ports and \$173,424,000 on deep draft ports for a total of \$199,409,000.¹

2. The creation of the Port Construction and Development Priority Program changed the method by which Louisiana participated in port improvements. The feasibility of proposed port projects must now be determined and the projects must be prioritized. The source of state funds for the Louisiana Port Construction and Development Priority Program is the Transportation Trust Fund. Revenue accrues to the Transportation Trust Fund through the collection of taxes placed on the sale of gasoline.

3. In general, the purpose of a priority program is to disburse funds to projects that have the highest prospects of success as determined by objective standards such as

technical and financial feasibility and overall impacts. A priority program also defines the standards by which these projects are evaluated and provides the mechanisms to conduct the evaluation according to an accepted methodology. Moreover, a priority program's application process may serve as a means to determine whether proposed projects are even eligible for funding under the program as well as provide the basis for maintaining a current inventory of facilities that can be used for future purposes.

4. The components of a typical priority program includes legislative authorization, a set of rules and regulations governing the program's implementation, an application process, an evaluation procedure, a prioritization of projects, funding, and finally implementation.

5. With regard to Louisiana's port priority program, many of the overall requirements and procedures are similar to other priority programs. However, Louisiana's program specifically emphasizes the need of equitable rationalization of state expenditures in order to avoid duplication of port infrastructure. In addition, because ports are dynamic economic entities, Louisiana's port priority program provides for rigorous analysis of forecasted project benefits in order to ensure the overall impact of the project on the state will be positive, providing maximum benefits for the state. Finally, because effective project implementation is as important to the success of the program as project prioritization, the Louisiana port priority program stipulates strict procedures for the planning and construction of funded projects as well as the operation of maintenance of the completed project.

B. Port Project Evaluation Methodology

1. R.S. 34:3451 et seq., requires that the Department of Transportation and Development (Department) develop procedures for review and a methodology to evaluate port projects which are seeking state funds.

2. Procedures to review and evaluate port project applications for funding shall be submitted to the Joint Legislative Committee on Transportation, Highways and Public Works. Before implementing these procedures, the approval of the committee shall be obtained in accordance with the Administrative Procedure Act.

3. The department may contract with the Louisiana State University National Ports and Waterways Institute for any of the duties associated with the development of the port priority program. These activities may include but are not limited to the development, review, and evaluation of plans and specifications and the development of the port program list. However, the final determination of the port priority list shall remain with the department and the Joint Legislative Committee as provided by Act 452.

4. An inventory of ports, navigable waterways, and water transportation facilities shall be maintained. Both private and public facilities shall be included. Information such as location, capacities, and capabilities shall be included. The department shall also serve as a clearinghouse for inquiries for ports and waterways information.

5. Each year, the department shall prepare a summary report of financial requirements for expanding or renovating existing ports and waterways facilities and constructing new ones. The financial requirements shall be separated into state, federal, local and private funds required.

C. Program Procedures

1. Any port authority may submit an application for funding to the department except as provided below. Applications shall be submitted by the first of March, June, September and December of each calendar year for consideration in the following fiscal year. The application shall include a description of the project, demonstration of immediate need, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share equal to or more than the single project maximum legislative funding authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum legislative funding authority established by the department.

c. The port authority has a project that may be canceled under Section VI, Distribution of Funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scored will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

4. The Louisiana Department of Transportation and Development shall review the applications. Applications shall not be subjected to a formal review and evaluation until the information required in the application has been submitted. Applications shall also be reviewed by any appropriate state agencies.

5. The act provides for the submittal of a list of recommended projects in prioritized order to the Joint Legislative Committee. The committee will hold public hearings to obtain public input concerning the priority list. After the hearings and before the convening of the regular session, the department shall prepare a recommended construction program for the coming fiscal year and submit it to the joint legislative committee. When the recommended construction program is presented to the legislature for funding, the legislature cannot add any projects to the program.

6. Upon funding by the legislature, the department shall enter into an agreement with the port authority to participate in the construction of the project. The port authority shall provide 25 percent local match for the cost of constructing the project, and shall furnish all lands, easements, rights-of-ways, and spoil disposal areas at no cost to the state unless said items are critical to the project. The port authority also shall operate and maintain the facility without cost to the state.

7. Port authorities domiciled in a parish with a population of 50,000 or more shall be responsible for the preparation of plans and specifications, for letting of bids for construction, and for construction observation. Port authorities domiciled in a parish with a population less than 50,000 may request the department to prepare plans and specifications, to let the project for bids, and to observe construction. The engineer that prepared the plans will inspect the work and certify that the project complies with the plans and specifications upon completion.

8. All contracts for construction shall be advertised and awarded in accordance with R.S. 38:2212 et seq.

9. Projects which are funded by this program shall begin in the fiscal year that the appropriation is made. Execution of an agreement with the department and receipt of preliminary plans by the department shall indicate that the project has begun. These preliminary construction plans differ from the plans submitted in the application in that they are more advanced.

D. Auditing Funds. Funds shall be audited biannually by legislative auditor or certified public accountant in accordance with R.S. 24:513(A) and distributed in accordance with R.S. 24:516(A). The audit shall include an investigation of any failure to comply with the recommendations of the department in planning, design, and construction of the port project. Port authorities shall certify annually that the funds made available have been expended according to law.

E. Misuse of Funds. The legislative auditor shall report any misuse of funds to the legislative audit advisory council. The council shall determine if in fact funds have been misused. If funds have been misused, the council will instruct the state treasurer to suspend the distribution of funds. The council shall also advise the local district attorney of the misuse. The district attorney will take appropriate actions.

¹Port and Waterways Institute, Louisiana Statewide Ports Assessment, 2 vols., (Baton Rouge: Louisiana State University, 1986), 11, 88.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 17:274 (March 1991), LR 18:749 (July 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), LR 34:

§2105. Program Procedures

A. Application

1. Any Louisiana port authority may submit an application for funding to the department, except as provided below. Applications may be submitted on a quarterly basis to the department no later than the first of March, June, September and December of each calendar year for consideration of funding or funding obligation authority in the following fiscal years. The application shall include a description of the project, demonstration of immediate need, benefits to be derived, preliminary design, cost estimate, and a description of the project area.

2. Except as provided herein, port authorities cannot submit an application if any of the following are true.

a. On the recommended construction program, the port authority has a balance of Louisiana's funding share

equal to or more than the single project maximum Legislative Funding Authority established by the department.

b. The application to be submitted will cause the port authority to have a balance of Louisiana's funding share greater than the single project maximum Legislative Funding Authority established by the department.

c. The port authority has a project that may be canceled under Section VI, Distribution of Funds.

3. If a port authority or its application meets one of the aforementioned factors, it may submit an informal application by December 1 and request that it be reviewed and evaluated in the event that the department has not received sufficient project applications to meet the estimated funding level for the fiscal year. Projects submitted under this provision will receive a lesser priority than other projects on the list. If more than one port authority submits an application under this provision, then the applications that were submitted as informal with the highest evaluation scores will be recommended in their order of score until the estimated funding level has been met. The remaining applications will not be eligible for the Recommended Construction Program.

B. Review and Evaluation of Applications. The Louisiana Department of Transportation and Development shall review the applications. Only applications which are complete, as determined by the department, shall be reviewed and evaluated. Applications shall also be reviewed by any appropriate state agencies.

C. List of Recommended Projects and Public Hearings

1. After receipt of applications by the department, the applications shall be reviewed. Only applications which are complete shall be evaluated and prioritized. Each quarter the department shall prepare furnish a prioritized list of projects, based on the applications received for that quarter, to the Joint Legislative Committee. Only projects that have met all program requirements as described herein under "Program Requirements" will be recommended. Multi-year projects that have been partially funded by the program shall receive higher priority than new projects in the next funding cycle. The Joint Legislative Committee will receive the prioritized list of projects from the department for each of the first three quarters of the year and shall call a public hearing within 30 days of receiving the list in order to receive public testimony regarding any project on the list. At such hearing, the joint committee will vote to accept, reject or modify the list. Each quarter, the department shall reprioritize the list of projects to reflect the cumulative list of projects recommended by the department.

2. After application recommendations for the last quarter are made, the department shall submit the final Port Construction and Development Priority Program to the Joint Committee for approval. Multi-year projects that have been funded by the program shall receive higher priority than new projects.

3. Prior to the convening of the regular session of the legislature, the Joint Legislative Committee shall hold a public hearing for the purpose of reviewing the final program for the ensuing fiscal year. Prior to such hearing, the department shall publish the appropriate official notice in the necessary journals. Projects recommended but not funded will be included in the list of recommended projects

for the following year and will receive priority over newly funded projects.

D. Construction Program

1. After reviewing the public input, the Joint Legislative Committee shall recommend to the legislature a construction program prepared by the department from the list of recommended projects. Projects recommended but not funded will be included in the list of recommended projects for the following year. If a recommended project remains unfunded after four years and has not begun construction under the reimbursement provisions set forth in the Section on "reimbursement" and the port authority still desires to proceed with the project, a new application will be required.

E. Project Agreements

1. Funded Projects Agreements. Prior to the commencement of any work, the port authority shall enter into a project agreement with the department whereby the port authority agrees to the following:

- a. to provide at least 10 percent local match for the cost of constructing the project;
- b. agrees to obtain all necessary permits for project construction;
- c. agrees to furnish all lands, easements, rights of way, and spoil disposal areas necessary to construct and maintain the project without cost to the state, unless said items are critical to the project; and
- d. agrees to assume all maintenance and operations costs and future alterations as may be required without cost to the state and agrees to implement the project in accordance with the Procedures Manual. The port authority shall not use state funds from any source in providing its local match.

2. Reimbursement Project Agreements. If program funds are not sufficient to provide funding for a project recommended by the department and approved by the Joint Legislative Committee and the port authority desires to construct the project with other funding and be reimbursed when the program funds are available, then a reimbursement agreement must be executed with the department prior to the commencement of any work. By executing this agreement, the port authority certifies that:

- a. it has sufficient resources to finance 100 percent of the project cost through completion or through completion of an approved phase;
- b. it agrees to furnish all lands, easements, rights of way, and spoil disposal areas necessary to construct and maintain the project without cost to the state, unless said items are critical to the project; and
- c. it agrees to assume all maintenance and operations costs and future alterations as may be required without cost to the state and agrees to implement the project in accordance with the Procedures Manual. (See also the Section entitled "Reimbursement")

F. Project Implementation. Upon executing the project agreement for funding with the department, the port authority shall insure that the Louisiana Port Construction and Development Priority Program Procedures Manual for Funded Projects is adhered to in the preparation of the plans and specifications, advertising for bids, awarding of a contract and construction observation. This manual will be made available to all port authorities designed to receive program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:751 (July 1995), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR:34

§2107. Program Requirements

A. ...

B. Specific Requirements

1. Project and Total Project

a. For purposes of this program, a "project" is that activity that derives benefits to the state after an investment of program and port funds. "Project" refers to that portion of the total project for which the port is seeking program funds from the department. The amount of program funds required is used in calculating the cost benefit ratio which is used for ranking projects.

b. The "total project" is that activity that derives benefits to the state after an investment of program, port and other public and private funds and its cost is used to determine if the requirement for a minimum cost benefit ratio of one is met except as provided herein in references to benefit-cost ratio for projects with a private investment equal to or greater than the program share. The "total project" includes all improvements that are necessary for both the public and private sectors in order to derive the benefits identified in the application.

2. Local Match

a. Each port authority shall provide a local match of at least 10 percent of the cost of constructing the project. Funds obtained from federal or other non-state sources (i.e., private donations) may be used for the local match. State funds cannot be used as local matching funds. Prior to advertisement for bids, verifiable evidence shall be submitted indicating that all non-program funds are in hand or are readily available.

b. A port authority may provide a local match greater than 10 percent. Since the state's investment is the cost in calculating the benefit-cost ratio, the cost/benefit will be greater if the port elects to provide a larger local match. A higher cost/benefit will result in a higher evaluation score.

3. Land Acquisition

a. Land acquisition shall be eligible for funding only when in the judgment of the department it is an integral component of a project and critical to its development. Land acquisition that is not a critical component of a project or that is intended to be used for future expansion of port facilities is not eligible for funding. An application must be developed which presents costs, benefits and other data for the total project.

4. - 4.b. ...

5. Number of Applications. An application shall be prepared for each project. If a port authority submits more than one application in a given quarter, the port authority shall prioritize them for review purposes. The top priority project shall be labeled "Priority One" on the title sheet of the application. The next priority project shall be labeled "Priority Two", etc. Due to time constraints and available personnel to evaluate the applications, the department may restrict the evaluation to only the top two priority projects per port in a given application year.

6. - 7. ...

8. Project Commencement. At the application state, projects must be developed sufficiently to allow them to commence within the fiscal year that they are funded. Execution of the project agreement with the department and receipt of preliminary plans by the department shall constitute commencement. Preliminary plans at this stage must be more advanced than plans submitted with the application. Projects that do not commence within the fiscal year that they are funded will result in forfeiture of program funds.

9. Forfeiture of Program Funds

a. If a port authority does not execute the project agreement furnished by the department and return it to the department within 90 days of being mailed to the port authority, then the state funds authorized from the Port Construction and Development Priority Program may be forfeited.

b. If a project is not commenced within the fiscal year that it is funded, then the state funds authorized by the program may be forfeited. A project is considered to have commenced upon delivering the executed project agreement and the preliminary plans to the department. Preliminary plans submitted with the application shall not meet this requirement.

c. If a project is canceled due to not beginning construction within the time frames provided for under the Section on distribution of funds, program funds may be forfeited. Projects which are canceled and program funds forfeited in this manner shall be treated in accordance with the provisions of R.S. 34:3456(A).

d. Advertising a project for bids to construct the project prior to obtaining written notice from the department may result in forfeiture of program funds.

10. ...

11. Maintenance. The port authority is responsible for maintenance and will structure its revenue rates to adequately fund maintenance costs. The port authority may execute an agreement with a tenant providing for maintenance of the project to be funded by the tenant. If such an agreement is executed, then the expenses used for the evaluation of the project will be reduced as explained herein in the Section entitled "Minimum Return on the State's Investment."

12. Discount Rate. The discount rate used in the evaluation process shall be based on the interest rate paid on 20-year U.S. Treasury Inflation Protected Securities (TIPS) which is currently 2.375. The rate will be evaluated every two years and may be adjusted by agreement between the department and the Ports Association of Louisiana (PAL). The adjusted rate will be available from the department upon request.

13. Minimum Return on State's Investment. The minimum rate of return for the state's investment shall be the discount rate as stated herein. This evaluation shall be based on no growth. In calculating the rate of return for this criteria, the cost shall be the total program funds invested. The benefits for this calculation shall be the port revenues less expenses associated with the proposed project. Expenses shall include maintenance and expected operational costs. Generally, the minimum allowance for expenses will be no less than the project cost divided by the project life. If the

port authority executes a conditional lease with the tenant and the tenant provides all maintenance, then the minimum expense may be one-half of the project cost divided by the project life. Also, see "Private Investment." The evaluation period shall be the life of the project. If the port sells bonds in order to finance all or a portion of the private investment, only revenues in excess of debt service, operating expenses and satisfaction of bond buyer reserve accounts may be used to determine the return on the state's investment. The minimum rate of return is calculated without growth and without additional inflation. The port should establish its fees based upon inflation and market conditions.

14. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the Port Construction and Development Priority Program. In calculating the B/C for this criteria, the cost is the total investment, both public and private, required to implement the total project and derive the benefits. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted the project must meet a program benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

15. Monitoring

a. For five years after completion of a project funded by the Port Construction and Development Priority Program, the port authority shall submit to the department a report comparing the actual benefits derived with the estimated benefits associated with the project. This report shall be submitted in accordance with the current edition of the Louisiana Port Construction and Development Priority Program Procedures Manual for Funded Projects. The source of data for the actual benefits shall include audited financial statements and other statements from the port authority. Significant deviations will be noted and proposed corrective actions, if needed, will be indicated. The report shall be certified true and correct by the executive director of the port authority.

b. Port authorities that do not comply with this provision will be ineligible to participate in the program until they are determined to be in compliance by the department. The department may audit the reports at program expense.

16. Private Investment. If the private investment exceeds the program investment, then the deduction for expenses may be reduced by the factor derived by dividing the program investment by the private investment. Also, refer to Section 14 "Benefit-Cost Ratio" for possible exemptions to the benefit-cost ratio required for funding.

17. Conditional Projects

a. Projects that meet all of the following conditions may be considered conditional projects:

i. the project must have a total project cost of at least \$15 million;

ii. the private investment must meet or exceed the program share;

iii. the participation of the private sector is contingent upon the availability of program funds, and

iv. the application must demonstrate that all parties worked diligently to submit a complete proposal, but

due to factors beyond their control, private sector/local share of funding is not assured.

b. A project that meets the above criteria may be evaluated as having immediate need if all other program requirements are met except the availability of the local and/or private share. If it meets all other requirements and is incorporated into the priority list recommended to the legislature, it will be designated as a conditional project. The sponsor will have 18 months from the date of the letter from the department notifying them of the project's funding to submit documentation that arrangements for the private sector and local share have been finalized. If after 18 months the documentation has not been submitted to and approved by the department, project funding will be withdrawn. If the sponsor desires to seek funding for the project, it will have to submit a new application and compete as a new project. The department may limit funding for these projects to a token amount based on availability of funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:751 (July 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:

§2109. Application

A. General Instructions

1. Applications may be submitted to the department quarterly no later than the first of March, June, September and December of each calendar year for consideration for funding the following fiscal year. Contact the Office of Public Works, Hurricane Floods Protection and Intermodal Transportation for the current address. The application shall be submitted in the format as shown and as follows:

Number of copies:	Original and three copies
Time:	Before 4 p.m. on the 1st of March, June, September and December

B. - B.3. ...

a. Cargo History. Indicate the total cargo and revenue cargo that was handled by the port in the last five years. List the cargo by type (bulk, break-bulk, neo-bulk, containers) and volumes. Analyze trends of cargo growth and the underlying reasons. Establish the level of utilization of existing facilities in relation to cargo volumes handles. If congestion was experienced, identify facility bottlenecks and describe how they were overcome. Also indicate the sources of all data.

i. If the project is expected to be leased to a tenant, then the cargo history is for the tenant and not the port. If the tenant has no cargo history or will only move a minimal amount of cargo, the port's history may be listed. However, information regarding both the tenant's business history and their business plan should be included to support the project.

ii. Provide a summary in this section of the application. A detailed list of cargo history shall be provided as Attachment H (see §2109.B).

b. Market Analyses. Forecast the cargo which will use the project for the next 10 years. List the type of cargo and volumes expected, along with the market analysis and estimate of the market share. Cargo forecasts and market analyses have to be complete with detailed underlying

assumptions and justifications. If cargo forecasts exceed historical trends, provide justification in terms of significant economic and technological developments occurring in the ports service area. If the port facility expansion is in response to increased demand from new industries locating in the area, these location decisions have to be substantiated by comparative cost analyses. As port projects cover diverse types of investments, it is difficult to provide exact industry norms to cover all situations. Some general guidelines on cargo forecasts are provided in this section. These must be considered as general industry norms. Variation from these norms must be analyzed and justified. If the project is expected to be leased to a tenant which does not specialize in cargo movement, then the market analyses is for the tenant's business and not the port's cargo. This also applies to the following: extrapolation from past trends, diverted cargo, generated cargo, origins and destinations, and cargo handling revenue.

b.i. - e. ...

f. Letters of Commitment. Include letters of commitment from users, indicate if confidential. Discuss whether commitments have already been made in terms of investments and planning and what other assurances (for example, executed lease agreements) are available to the port that the commitments will be met. If the viability of the project depends on these commitments, sensitivity analyses should be conducted to analyze the alternatives available to the port in the event the commitments are not met by the port users. The inclusion of the following types of information into the letter will be useful:

- i. the amount that the user/tenant is willing to pay for use of the project;
- ii. anticipated cargo tonnages;
- iii. number of jobs created/saved by the project;
- iv. amount of investment the user is expecting to make on the project; and
- v. length of time to which the user is willing to commit.

3g. - 4.c. ...

d. Cost Estimate. The detailed cost estimate for the project shall identify construction costs, land, mitigation, engineering, legal and administration. Recurring maintenance costs shall also be estimated and included in this section. The estimate should also detail the costs of equipment and construction activities to at least the level to allow verification of the estimate. For each component, provide the description, quantity, unit of measure and unit price. Avoid the use of lump sum where possible.

i. In addition to the above, estimates of related investments made by the industrial tenants also have to be included to take into account the cost of the total project. If, for example, an industrial development is anticipated consequent to the project and benefits are claimed, associated costs should also be included as total project costs. The estimate should be of similar detail to that required for the portion of the project to be funded by the program.

4.e. - 5.a. ...

b. Revenues and Expenses. Estimate the port revenues for both with and without project conditions. Also estimate the operating expenses with and without the proposed project (e.g., labor, utilities, etc.). These estimates

have to be based on present and future port tariff rates to conform to industry norms. Only projects that will realize the minimum return on the state's investment as defined herein will be funded by the program.

c. ...

d. Payroll Benefits. Standard payroll estimates provided in Figure 3 shall be used in estimating payroll benefits in order to equitably evaluate applications for funding through the program. The department will adjust the payroll and spin-off benefits for inflation using the U.S. Department of Labor's Consumer Price Index. If job benefits are assumed to continue unchanged into the future, than an implication is made that those individuals employed as a result of the project would not otherwise find employment. This is not reasonable, as employment will ebb and flow over time. As true net benefits from employment diminish over time, the payroll benefits resulting from the project have to be allowed to decay in a linear fashion annually, reaching zero at the end of the project life.

Figure 3. Average Annual Earnings by Category for Port Related Industries	
Work Category	Average Annual Earnings
Managerial (11 - 3071)	\$60,400
Supervisory, Stevedore and Skilled Workers (53 - 1031)	46,300
Factory Workers (51 - 2041)	31,500
Clerical, Unskilled and Misc. (53 - 7062)	18,600
Source: Louisiana Department of Labor 1st Quarter of 2005	

e. Spin-Off Benefits of Payroll. New payroll generated by the project results in spin-off benefits in the local economy. In order to calculate the spin-off benefits, assume that they are equal to the payroll benefits directly created or maintained by the project. If a project will have \$100,000 payroll benefits in a year, then the spin-off benefits also equal \$100,000. Spin-off benefits will also decay in a linear fashion annually, reaching zero at the end of its project life.

f. - g. ...

h. Benefits-Costs Tabulation. Tabulate the project's benefits and costs over the project's life. Remember that all the benefits will not be derived until all of the components that are identified in "Adequacy of Components" are implemented and are adequate.

6. - 7.d. ...

e. If the project is expected to generate over one hundred inbound and outbound trips in an hour or more than 750 trips a day, then a traffic impact study with comments from the Metropolitan Planning Organization and/or the Regional Planning Commission is required. Said study is to identify adverse impacts on the transportation network and to mitigate negative impacts.

f. The assessment is to indicate whether the impacts are short-term or long-term, direct or indirect, and adverse or beneficial. Applicants may seek comments from appropriate state and federal agencies.

8. Master Plan for Port. Discuss how the proposed project complies with the port's master plan or why it does

not. Indicate when the master plan was adopted by the port authority. Copies of the master plan are to be submitted with the application as Attachment I. (Refer to Page Application 22, I. Port's Master Plan.)

9. Other Information

a. Funding Sources: Identify all sources and amounts of funding, such as port, program, federal, state, parish, private and other. Clearly indicate if any type of bonds will be sold to assist in financing the project. Indicate if an application for other funds has been submitted and if a commitment has been received. Provide a status of the port authorities' 10 percent local match.

b. Multi-Year Projects. If the project will require more than one year to complete, summarize the anticipated investment schedule required for full completion of the proposed project.

c. Permits. List all necessary permits, indicate the status of permit acquisition, and indicate project compliance with permit requirements.

C. Attachments

1. Resolution. Provide certified copies of the resolution adopted by the port authority similar to the sample resolution in the appendix indicating that the port authority is knowledgeable and is agreeable to its duties and responsibilities in participating in the Port Development and Construction Priority Program.

2. - 3. ...

4. Engineering Report. Provide copies of the engineering report and geotechnical report, if applicable.

5. - 8. ...

9. Port's Master Plan. The port's master plan is to be submitted with the application. If the port does not have a master plan, then it should submit a layout of existing facilities and an explanation why the port does not have a master plan. If the port has submitted a current copy with an application that was recommended by the department in the last three years, the port does not have to submit a master plan.

10. - 11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 16:695 (August 1990), amended LR 18:752 (July 1992), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:

§2111. Evaluation

A. Analysis. In determining a score to prioritize the request for funds, the following factors will be considered:

1. technical feasibility;
2. economic feasibility;
3. economic impacts; and
4. port management.

a. - a.v. ...

b. Economic Feasibility. The primary factor in determining economic feasibility is the benefit-cost ratio. For purposes of evaluation, the investment is the amount of program funds needed for the proposed port improvement project.

c. Economic Impacts. The economic impacts are to be analyzed by the number of permanent jobs created or saved by the port improvement project after construction.

d. Port Management. The primary factor in appraising the management of the port is the average return on investment for the last five years.

e. Location. The elements in assessing the port's location are as follows:

- i. adequacy of the navigable waterways;
- ii. suitable railroad access;
- iii. ample highway facilities;
- iv. location of nearest competing port.

f. Multi-Year Projects. Multi-year projects will receive priority over new projects after the initial year of funding, provided the years are consecutive and the implementation of the previous year components was in accordance with the Program Procedure Manual.

B. Methodology

1. The procedure for evaluating applications for funding is as follows.

a. Completeness. If an application is complete, then proceed, otherwise advise applicant so that he may provide missing data for funding consideration next submittal date.

b. - c. ...

d. Return on Investment. Only projects that have met the minimum rate of return for the state's investment as defined herein or more shall be funded by the program.

e. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the program. In calculating the B/C for this criteria, the cost shall be the total investment, both private and public, needed to implement the total project and derive the benefits. Note that the B/C used in the economic feasibility is based on program funds in lieu of total investment.

i. For projects that have a private investment that is equal to or greater than the amount of program funds required, the project may be exempted from this requirement. If exempted, the project must meet a program benefit-cost ratio equal to one or more. The cost for the program benefit-cost ratio is equal to the amount of program funds required for the project.

f. Technical Feasibility (60 points) To proceed, the technical feasibility score must be 40 or more.

g. Economic Feasibility (150 points) Projects with benefit-cost ratios greater than 10 are scored from 100 to 150 points with the highest of those ratios receiving 150 points. The remaining projects with benefit-cost ratios greater than 10 are pro-rated. Projects with benefit-cost ratios of 10 or less are scored from 0 to 100 points with the highest of those ratios receiving 100 points. The remaining projects with benefit-cost ratios of 10 or less are pro-rated.

h. ...

i. Management of Port. (20 points) The port with the highest rate of return on investment for the last five years will receive 20 points. The others are pro-rated.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:758 (July 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 34:

§2113. Distribution of Funds

A. Funding. Program funds shall be distributed in accordance with the approved construction program. The funding for any single project that is submitted to the legislature for funding may be limited to a maximum legislative funding authority of \$9 million. The department may increase the funding limit for a fiscal year based on the availability of funds. The department may consult with PAL regarding the limit; but, the final limit shall be at the sole discretion of the department.

i. The actual distribution of these funds to the ports for each approved project shall be at the sole discretion of the department. The department may consult with PAL in determining this distribution.

ii. The department may limit the funding distribution to each port authority to no more than one-third 1/3 per year of the single project maximum legislative funding authority established by the department for the fiscal year.

B. Construction. Should the funding level be insufficient to fund all the projects that have been recommended, then the unfunded projects will be included in the recommended list of projects the following year. An unfunded project may be included in the recommended list of projects up to four years without port authority re-submitting an application. If a reimbursement agreement has been executed with the department and the project has begun construction prior to the expiration of the four year period, then the project will remain on said list until all program funds have been authorized.

C. Cancellation. The department may cancel any project that is not under construction with the below mentioned time limits and any unexpected proceeds may be reallocated to another port project. The award of a construction contract shall satisfy the requirement to be "under construction."

1. for projects that are completely funded in one fiscal year, within 18 months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

2. for projects that are completely funded over two fiscal years, within 12 months of the date of notification from the secretary of the department, or his designated representative, that the project has sufficient funding to be completed;

3. for projects that are completely funded over three or more fiscal years, within six months of the date of notification from the secretary of the department or his designated representative, that the project has sufficient funding to be completed;

4. for projects that have approval from the department to be divided into more than one construction contract, the above time frames apply to each independent contract that has sufficient funding to be completed. An independent contract shall be a contract that does not require the completion of another contract in order to be constructed. Each additional dependent contract shall be constructed within six months from completion of the contract that it is dependent upon;

5. if a port authority has a project that is eligible for cancellation under the provisions of this Section, the port

shall not be eligible to submit an application for funding or to receive additional funding for previously recommended projects until the port authority officially withdraws its project, or until the project, including all approved phases, has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:759 (July 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR:34

§2115. Reimbursement

A. A sponsoring port authority may make application to utilize its own funds for project construction and to be reimbursed by the Port Construction and Development Priority Program provided that:

1. all program criteria are met in accordance with R.S. 34:3451 et seq.,

2. the project is listed in the recommended construction program, and

3. all program criteria are met in accordance with the program's "Procedures Manual" and the rules and regulations promulgated by the department.

B. If the sponsoring port authority desires to construct the project or approved phase of the project under the reimbursement option, it must submit a request to the department and execute a project agreement prior to commencement of any work. Projects or approved phases that are advertised for bids under the reimbursement option shall be completed under the reimbursement option whether or not funding or funding obligation authority has been made available by the legislature prior to the completion of the project or approved phase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 34:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family;

2. the implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children;

3. the implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family;

4. the implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget;

5. the implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children;

6. the implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker, DOTD Legal Section, P.O. Box 94245, Baton Rouge, LA 70804, Telephone (225)237-1359.

Johnny B. Bradberry
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Port Construction and Development Priority Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs or savings to the state or local governmental units as a result of the action. The rule is being repealed in order to allow flexibility in the program that will enable the Department to operate in the most effective and efficient manner.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this rule repeal. This action will allow the Department flexibility in project implementation, thereby giving the agency an opportunity to operate in the most effective and efficient manner based upon constantly changing project implementation strategies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs to directly affected persons or non-governmental groups as a result of this rule repeal. Louisiana's port authorities which have projects funded in part through the Port Construction and Development Priority Program should be positively affected by this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action should have no impact on competition or employment. Greater private investment may be encouraged by this rule change. This may result in a positive impact on business, thereby increasing competition.

Johnny B. Bradberry
Secretary
0712#083

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Public Works

Louisiana Port Construction and Development Priority
Program Procedural Manual (LAC 56:III.Chapter 23)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to repeal Chapter 23 of Subpart 2 of Part III of Title 56 entitled "Louisiana Port Construction and Development Priority Program Procedural Manual," in accordance with the provisions of R.S. 34:3451-3463.

**Title 56
PUBLIC WORKS**

**Part III. Flood Control and Water Management
Subpart 2. Port Construction and Development Priority
Program**

**Chapter 23. Louisiana Port Construction and
Development Priority Program
Procedural Manual**

**§2301. Port Construction and Development Priority
Program**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:870 (August 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 34:

**§2303. Engineering, Advertising and Contracting
Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:871 (August 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 34:

§2307. Operation and Maintenance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:873 (August 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 34:

**§2309. Sample Agreement with Sponsor Responsible for
Engineering**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3451-3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18:874 (August 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), repealed LR 34:

Family Impact Statement

The proposed adoption of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Sherryl J. Tucker, DOTD Legal Section, P.O. Box 94245, Baton Rouge, LA 70804, Telephone (225) 237-1359.

Johnny B. Bradberry
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Louisiana Port Construction and
Development Priority Program Procedural Manual**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There should be no costs or savings to the state or local governmental units as a result of the implementation of this rule change. It is being promulgated for the purpose of reflecting recent changes in the law and current Departmental policies that have occurred since the inception of the program, as well as to add clarification to certain sections. Louisiana port authorities, created by Louisiana statute, which elect to apply for funding through the Port Construction and Development Priority Program will be affected most directly by this rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule change adjusts mechanisms within the priority program which will encourage private investment by giving incentives to achieve the initial thresholds for entry into the program. Projects with large private investments will be encouraged. This will likely result in economic benefit for the private investors, however the amount of the benefit cannot be quantified at this time.

There will be increased costs associated with this rule change for those few applicants which will be required to submit a traffic impact study for projects which generate over 100 inbound an outbound trips in an hour or more than 750 trips in a day.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Greater private investment may be encouraged by this rule change. This may result in a positive impact on business, thereby increasing competition.

Johnny B. Bradberry
Secretary
0712#084

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Department of Treasury
Board of Trustees of the Louisiana State
Employees' Retirement System

Elections
(LAC 58:I.301, 303, 501, and 503)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes to amend LAC 58:I.301, 303, 501, and 503, which would extend the period during which eligible persons may be nominated for board of trustees elections. The proposed amendments would also make the election rules for active and retired LASERS members uniform. The proposed Rule amendment complies with and is enabled by R.S. 11:511 and R.S. 11:515. No preamble for these proposed Rule amendments has been prepared.

Title 58
RETIREMENT

Part I. Louisiana State Employees' Retirement System
Chapter 3. Election of Active Member Trustees

§301. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 - 1. first day in March: nominations shall be opened;
 - 2. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:

§303. Election Rules

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning members' signatures must be accompanied by the final four digits of their Social Security number. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

- B. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 31:946 (April 2005), LR 34:

Chapter 5. Election of Retired Member Trustees

§501. General Schedule of Elections

- A. ...
- B. The schedule for elections shall be as follows:
 - 1. first day in March: nominations shall be opened;
 - 2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central Daylight Savings Time);
 - 3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:

§503. Election Rules

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. The petitioning retired members' signatures must be accompanied by the final four digits of their Social Security numbers. The petition should contain all of the information which the candidate wishes to be included in the election brochure.

- B. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:947 (April 2005), LR 34:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

- 1. the stability of the family;
- 2. the authority and rights of parents regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed rules.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., February 29, 2008, to Steve Stark, Board of Trustees for the Louisiana State

Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Elections**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the implementation of these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No calculable effect on costs or benefits to non-governmental groups or persons is anticipated to result from the amendment of these rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment in the public or private sectors is anticipated to result from the proposed rule changes.

Cindy Rougeou
Executive Director
0712#054

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Promotion of Youth Fishing (LAC 76:VII.108)

The Wildlife and Fisheries Commission hereby advertises its intent to create a rule to allow anglers below 16 years of age to keep black bass below the minimum size limit in certain waterbodies during the Memorial Day and Labor Day weekends in 2008.

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§108. Promotion of Youth Fishing

A. Notwithstanding the provisions of LAC Title 76:VII.165 and 189, anglers below 16 years of age shall be

allowed to possess black bass below the minimum length limit in accordance with the following provisions.

1. The areas where the length limit will be suspended are the Atchafalaya Basin, Lake Verret-Palourde Area and the Lake Fausse Point-Dauterive Area, as defined in LAC Title 76:VII.165 and 189, respectively.

2. The dates of the suspension shall be Memorial Day weekend, May 24-26, 2008 and Labor Day weekend, August 30-September 1, 2008.

3. The suspension shall be effective from sunrise on each opening day extending until midnight on each closing day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:326.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: this Notice of Intent will have no impact on the six criteria set out by R.S. 49:972(B).

Interested persons may submit written comments on the proposed Rule to Gary Tilyou, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, February 7, 2008.

Earl P. King, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Promotion of Youth Fishing**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units are anticipated. Implementation and enforcement of the proposed rule will be carried out using existing staff.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule is anticipated to have no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will directly benefit anglers below sixteen (16) years of age who choose to participate in the two youth fishing promotional weekends. Anglers below 16 years of age will be allowed to take and possess black bass below the minimum length limit in the Atchafalaya Basin - Lake Verret - Palourde Complex and in the Lake Fausse Point/Lake Dauterive Complex areas, during the Memorial Day (May 24-26, 2008) and Labor Day (August 30-September 1, 2008) weekends. No additional costs, paperwork or workload will be incurred as a result of the proposed action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule is anticipated to have no impact on competition and employment in the public or private sectors.

Wynette Kees
Fiscal Officer
0712#057

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

Senate Committee on Health and Welfare

Emergency Rule—Pain Management Clinics
Licensing Standards
(LAC 48:I.Chapter 78)

Pursuant to R.S. 49:968, the Senate Health and Welfare Committee and the House of Representatives Health and Welfare Committee met jointly on December 10, 2007, to consider proposed rules relative to Pain Management Clinics—Licensing Standards, LAC 48:I. Chapter 78, published by the Department of Health and Hospitals.

After an extensive debate on the proposed rules, the Senate Health and Welfare Committee voted unanimously that the proposed rules were unacceptable

Joe McPherson
Chairman

0712#111

COMMITTEE REPORT

House Committee on Health and Welfare

Emergency Rule—Pain Management Clinics
Licensing Standards
(LAC 48:I.Chapter 78)

Pursuant to the provisions of R.S. 49:968, the House of Representatives Health and Welfare Committee met on December 10, 2007 to review proposed rules relative to pain management clinics—licensing standards, which were submitted by the Department of Health and Hospitals.

There was lengthy testimony and discussion of the proposed rules. The committee discussion centered on Section 7833(D), which requires a patient at a pain management clinic to be personally examined by a pain specialist if the visit results in a controlled dangerous substance being prescribed to the patient. The committee suggested that the requirement that a pain specialist be on-site at a pain management clinic open on or prior to June 15, 2005 is overly burdensome.

Following the committee discussion, there was a motion to reject the proposed rules. With one committee member objecting to the motion, the committee voted to reject the proposed rules.

Syndie Mae Durand
Chairman

0712#112

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Forestry

Timber Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission met jointly to adopt current average timber stumpage values for 2008 on December 10, 2007, which is the second Monday in December as required by the provisions of R.S. 47:633.

The valuations adopted by these Commissions shall take effect on January 1, 2008 and continue through December 31, 2008. The values that were adopted are:

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$323.06/MBF	\$40.38/Ton
Hardwood & Cypress Sawtimber	\$267.37/MBF	\$28.14/Ton
Pine Chip and Saw	\$56.39/CD	\$20.89/Ton
Pulpwood		
Pine Pulpwood	\$26.23/CD	\$9.71/Ton
Hardwood & Cypress Pulpwood	\$16.53/CD	\$5.80/Ton
Conversion Factors		
MBF Pine Doyle Scale	= 16,000	= 8.00 Tons
MBF Hardwood Doyle Scale	= 19,000	= 9.50 Tons
Cord Pine	= 5,400 lbs	= 2.70 Tons
Cord Hardwood	= 5,700 lbs	= 2.85 Tons
Chip-N-Saw	= 5,400 lbs	= 2.70 Tons

Signed and attested to this 10th day of December, 2007.

Paul Frey
Assistant Commissioner
State Forester

0712#080

POTPOURRI

Department of Economic Development Office of Business Development

Substantive Change Hearing—Motion Picture Production and Infrastructure Tax Credit Programs (LAC 61:I.Chapter 16)

The Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development pursuant to the authority of R.S. 47:6007 and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt the following Rules of the Louisiana Entertainment Industry Tax Credit Programs, specifically the Motion Picture Production and Infrastructure Tax Credit Programs. The purpose of the Rules are to establish program policies and procedures in the administration of the Motion Picture Incentive program which includes a production and infrastructure portion.

Title 61

Revenue and Taxation

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter A. Louisiana Motion Picture Investor Tax Credit Program

§1601. Purpose and Description of Louisiana Motion Picture Investor Tax Credit Program

A. The purpose of this program is to encourage the development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape, digital, and television program productions, in order to achieve an independent, self-supporting industry in this state, and to encourage development of a Louisiana film, video, television and digital production and post-production infrastructure with state-of-the-art facilities.

B. Approvals of applications shall not result in a duplication of tax credits for the same assets. The tax credit granted for qualified expenditures on tangible assets shall not, in the aggregate, exceed the maximum applicable tax credit rate multiplied by the acquisition cost of the asset, as reflected in the first approved application for an investor tax credit.

C. General Description of the Louisiana Motion Picture Investment Tax Credit

1. Louisiana Motion Picture Investment Tax Credit. The Louisiana Motion Picture Investment Tax Credit is comprised of a percentage of an investor's base investment made and expended in the state in either a state-certified production or, for applications received prior to August 1, 2007, a state-certified infrastructure project.

2. Infrastructure Portion of the Investment Tax Credit. Additionally, for applications received prior to August 1, 2007, each taxpayer whose base investment totals greater than \$300,000 will be allowed an additional credit of 15 percent of the base investment, for an overall total of 40 percent, made by that taxpayer that is expended on a state-certified infrastructure project.

3. Infrastructure Portion of the Investment Tax Credit. For applications received after August 1, 2007, and until January 1, 2009, each taxpayer whose base investment totals greater than \$300,000 will be allowed a credit of 40 percent of the base investment made by that taxpayer that is expended on a state-certified infrastructure project.

4. Payroll Portion of the Investment Tax Credit. Finally, each investor whose base investment includes expenditures on payroll for Louisiana residents employed in connection with a state-certified production shall be allowed an additional credit of 10 percent of such payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1602 Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Allocatee—shall mean an individual or entity that received an allocation of investment tax credits.

Allocator—shall mean an individual or entity that makes an allocation of investment tax credits.

Base Investment—shall mean the actual investment made and expended by:

a. A state-certified production in the state as production expenditures incurred in this state that are directly used in state-certified production or productions.

b. A person in the development of a state-certified infrastructure project. Infrastructure Expenditures shall include, but are not limited to, expenditures for infrastructure project development, film and television production spaces, post-production equipment, facilities, equipment for distribution companies domiciled within Louisiana, transportation equipment, land acquisition and closing costs, construction costs, design and professional consulting fees associated with the state-certified infrastructure project, furniture, fixtures, equipment, and financing costs. Infrastructure Expenditures shall not include indirect costs, any amounts that are later reimbursed by a third party, any costs related to the allocation or transfer of tax credits, or any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the State-certified Infrastructure Project.

Commissioner—shall mean the Commissioner of the Division of Administration.

Department—shall mean the Louisiana Department of Economic Development, or its successor.

Developer—shall mean a person in the development of a state-certification infrastructure project.

Director—shall mean the director of the Louisiana Office of Entertainment Industry Development (the Office).

Division—shall mean the Division of Administration.

Expended by a State-Certified Production in the State—for purposes of R.S. 47:6007(B)(1), shall mean:

a. In the case of tangible property, property which is acquired from a source within the state;

b. and in the case of services, shall mean procured from within the state and performed in the state;

c. and that are provided by an individual or entity duly qualified to do business in Louisiana and offering such goods or services for sale or lease.

Louisiana Resident—Residency shall be established if in exchange for employment with a motion picture production company the individual agrees in writing to file a Form IT 540, as a full year Louisiana resident, or Form IT 540B, as a part year resident, for his taxable year employed by the motion picture production company and to pay the Louisiana income tax shown thereon. "Resident" or "resident of Louisiana" means a natural person and, for the purpose of determining eligibility for the tax incentives, any person domiciled in the state of Louisiana and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

Non-Allowable Production Expenditures—the following expenses are not eligible to earn tax credits:

a. overhead and similar expenses, do not qualify as production expenditures unless the expenditures were incurred in Louisiana and directly used in a state-certified production

b. the costs of the independent audit as required by law is not an allowable expense;

c. the application fee as required by law is not an allowable expense;

d. post production expenditures for marketing and distribution are not allowable expenses

e. any amounts that are later reimbursed are not allowable expenses;

f. any costs related to the transfer of tax credits are not allowable expenses;

g. any amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production are not allowable expenses.

Office—shall mean the Office of Entertainment Industry Development.

Payroll—shall include all salary, wages, and other compensation, including related benefits sourced or apportioned to Louisiana.

Payroll Expended on Louisiana residents—for the purposes of the additional 10 percent tax credit, shall mean the gross amount of wages and salaries as reflected on Form W-2 (the amount listed on Item 1 of Form W-2 - wages, tips and other compensation) and the amount listed on Form 1099 that is actually paid to a Louisiana resident for services performed in Louisiana.

Primary Investments—for infrastructure projects, shall mean investments in facilities or equipment acquired or constructed for complete and exclusive use in the production or postproduction activities associated with the making of films, videos, television or video productions.

Production Expenditures—means preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, including without limitation the following:

a. set construction and operation;

b. wardrobes, make-up, accessories, and related services;

c. costs associated with photography and sound synchronization, lighting, and related services and materials;

d. editing and related services;

e. rental of facilities and equipment;

f. leasing of vehicles;

g. costs of food and lodging;

h. digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in Louisiana);

i. total aggregate payroll (limited to the amount of total payroll expended in Louisiana and which is taxable to the recipient in Louisiana. A Louisiana tax return is required to be filed reflecting the amount of compensation paid while the recipient is located in Louisiana. If the recipient is not a Louisiana resident, then a non-resident income tax return should be filed);

j. music, if performed, composed or recorded by a Louisiana musician, or released or published by a Louisiana-domiciled and headquartered company;

k. airfare, if purchased through a Louisiana-based travel agency or travel company;

l. insurance costs or bonding, if purchased through a Louisiana-based agency;

m. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed if the employer deducts and withholds Louisiana income taxes on the taxable wage payments made to the employee;

Production Facility—shall mean a physical facility that provides the goods and services necessary for completing the major activities of motion picture production.

Secondary Investments—for infrastructure projects, shall mean any assets that are not primary investments and shall include all assets having uses other than supporting a state of the art production facility.

Secretary—shall mean the Secretary of the Department of Economic Development.

State-Certified Infrastructure Project—shall mean an infrastructure project that meets the definition of a production facility and is approved by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration. The term "*infrastructure project*" shall not include movie theaters or other commercial exhibition facilities.

State-Certified Production—shall mean a production approved by the Office of Entertainment Industry Development and the Department of Economic Development produced by a motion picture production company domiciled and headquartered in Louisiana which has a viable multi-market commercial distribution plan.

Transferee—shall mean an individual or entity that receives a transfer of investor tax credits.

Transferor—shall mean an individual or entity that makes a transfer of an investor tax credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1603 Application for the Motion Picture Investor Tax Credit

A. An applicant for the motion picture investor tax credit shall submit an application for initial certification to the Office of Entertainment Industry Development that includes all of the information required by R.S. 47:6007 D(2)(a); and an application fee payable to the Department of Economic Development or the State of Louisiana shall be submitted with the application determined as provided in R.S. 47:6007 D(2)(b).

B. Rules of Application. The investor tax credit authorized by R.S. 47:6007 C(1) may be earned, transferred, allocated, and claimed as follows:

1. Individuals or entities (other than motion picture production companies) may earn investor tax credits pursuant to R.S. 47:6007 C(1).

2. The tax credits cannot be applied against a tax or transferred until the expenditures have been certified by the department, office and, in the case of infrastructure projects, the division.

3. Once investor tax credits are earned by an individual or entity, such individual or entity and any

subsequent transferee may transfer or allocate the investor tax credits in one or more of the following ways:

a. transfer: by transferring or selling all or a portion of the investor tax credits to any individual or entity; or

b. allocation: if the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation, the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating agreement or partnership agreement. These terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation.

i. the allocating entity:

(a). may be treated as a "partnership" for federal or state tax purposes; or

(b). may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a "partnership" or itself as a "partner" or the ownership interest in the allocating entity as a "partnership interest" for federal tax or state tax purposes.

4. A state-certified production or a state-certified infrastructure project earns tax credits at the time the qualifying expenditures are made pursuant to these rules. However, credits can not be applied against a tax or transferred until the expenditures are certified by the Department of Economic Development, the Office of Entertainment Industry Development and in the case of infrastructure tax credits, also by the Division of Administration.

5.a. An owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the ten-year carryforward period.

b. In the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides otherwise.

6. Any individual or entity shall be allowed to claim the investor tax credit authorized by R.S. 47:6007(C)(1) against its Louisiana income tax liability:

a. whether or not any such individual is a Louisiana resident; and

b. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana.

7. An Investor Tax Credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years. However, an Investor Tax Credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c). Penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid. The date of payment is the date that the Louisiana

Department of Revenue receives a return from a taxpayer on which the Investor Tax Credits are claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1604 Certification of Investor Tax Credits

A. Preliminary Certification. The office and the department shall issue preliminary certifications of productions and the office, department and the division shall issue preliminary certifications for infrastructure projects. A preliminary certification shall be issued as follows:

1. State-Certified Production: to obtain the preliminary certification from the office and the department for a "state-certified production" as required by R.S. 47:6007(B)(9) and (10), the applicant must submit a written request to the director and the secretary of the department requesting approval of the production as a "state-certified production" and setting forth the following information:

a. working title of the production which approval is requested. Should the title change, the state-certified production needs to inform the office as soon as that change is made;

b. name of the requesting production company;

c. name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;

d. approximate beginning and ending date of production in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total production-related costs of production for which approval is requested;

h. estimated total amount of production-related costs to be expended in Louisiana in connection with the production for which approval is requested;

i. estimated percentage of each of pre-production, production, and post-production work to be performed in Louisiana in connection with the production for which approval is requested;

j. estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production for which approval is requested;

k. a preliminary budget including the estimated Louisiana payroll and estimated in-state investment;

l. for production seeking approval, a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant;

m. list of principal creative elements such as principal cast, producer, and director; and

n. facts sufficient for the office and the department to determine each of the following:

i. that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(5);

ii. that the requesting production company is domiciled and headquartered in Louisiana; and

iii. that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production for which approval is requested.

2. State-Certified Infrastructure Project: to obtain the preliminary certification from the office, the department and the division for a "state-certified infrastructure project" as required by R.S. 47:6007(B)(9) and (10), the applicant must submit a written request to the director, the secretary of the department and the commissioner of the division requesting approval of the project as a "state-certified infrastructure project" and setting forth the following information:

a. working title of the infrastructure project for which approval is requested;

b. name of the requesting infrastructure company;

c. name, telephone number, e-mail address and attesting signature of the requesting infrastructure company's contact person;

d. approximate beginning and ending date of construction in Louisiana;

e. Louisiana office address;

f. telephone number of requesting company's Louisiana office address;

g. estimated total project-related costs or total costs associated with the infrastructure project for which approval is requested;

k. a preliminary operating budget including the estimated Louisiana payroll and estimated in-state investment;

l. a detailed business plan outlining the exact costs of what is proposed for the project;

m. total number of jobs to be created by the infrastructure project.

3. Any applicant requesting certification of a production or an infrastructure project is required to reimburse the Office of Entertainment Industry Development for any additional audits required in relation to granting the credit.

4. The office and the department shall issue their written approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" after receiving a complete application, all supporting documents necessary to make a determination and the application fee with respect to such project or production that complies with these rules. In the alternative, if the office and the department determine that a request for approval of a project as a "state-certified infrastructure project" or of a production as a "state-certified production" received from a developer or production company is not in compliance with these rules, after receiving such request, the office and the department shall request in writing from the requesting developer or production company any information necessary in their determination for such request to comply with these rules. Upon receiving all of the requested additional information in writing from the developer or production company, and if the office and the department determine that the request for approval with respect to such project or production complies with these rules, the office and the department shall issue to the requesting developer or production company their written

approval of the project as a "state-certified infrastructure project" or of a production as a "state-certified production."

5. For state-certified productions, the initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

B. Certification of Expenditures & Audit Requirements.

1. Prior to any certification of the expenditures of a state-certified production or state-certified infrastructure project and the issuance of any investor tax credits, the motion picture production company, with respect to state-certified productions, and the developer, with respect to state-certified infrastructure projects, shall submit to the Office of Entertainment Industry Development a cost report of production expenditures or infrastructure expenditures audited and certified by an independent certified public accountant as determined by this Rule. Either the Department of Economic Development or the Department of Revenue may audit the cost report submitted by the motion picture production company or developer. The following procedures set forth minimum standards for acceptability of the audit to be performed by a certified public accountant. The certified public accountant's report shall at a minimum, meet the following requirements.

a. The auditor auditing the report shall be a Certified Public Accountant licensed in the State of Louisiana and shall be an independent third party, not related to the producer or developer or any known potential investor eligible for tax credits nor shall the CPA be engaged in the active role of obtaining the credits for themselves or their clients from any production they are auditing.

b. The auditor's opinion must be addressed to the party who has engaged the auditor (e.g., directors of the production company or developer, or the producer of the production).

c. The auditor's name, address, and telephone number must be evident on the report.

d. The auditor's opinion must be dated as at the completion of the audit fieldwork.

e. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America.

f. The auditor shall have demonstrated sufficient knowledge of accounting principles and practices generally recognized in the motion picture industry.

2. After receiving a written request from an investor for certification of expenses and upon certification of the expenditures by the Office of Entertainment Industry Development, the Department of Economic Development and the Division of Administration (for infrastructure tax credits), the Office shall issue one original tax credit certification letter of such investor signed by the director reflecting the investor's name, the dollar amount of investor tax credits earned by the investor pursuant to R.S. 47:6007(C) through the date of such request, the calendar or fiscal year in which the investor tax credits were earned by the investor, the state-certified infrastructure project or the state-certified production with respect to which the investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project, or state-certified production.

3. If the investor tax credits evidenced by a tax credit certification letter are allocated, sold or transferred or allocated as provided herein, then concurrently with the submission of the notification required by R.S. 47:6007(C)(4), the transferor shall submit to the office the original certificate of ownership evidencing the investor tax credits being transferred or allocated. After receiving the original certificate of ownership evidencing the investor tax credits being transferred or allocated, the office shall issue to each transferee or allocatee indicated in the transferor's or allocator's notification a certificate of ownership signed by the director reflecting such transferee's or allocatee's name, the dollar amount of investor tax credits transferred or allocated to the transferee or allocatee, the calendar year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified infrastructure project or state-certified production. If the certificate of ownership that the transferor or allocator submits with its notification of transfer or allocation evidences more investor tax credits than actually transferred or allocated by the transferor or allocator, then the office shall also issue a certificate of ownership to the transferor or allocator signed by the director reflecting the transferor's or allocator's name, the transferor's or allocator's remaining investor tax credit balance, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007(C), the state-certified production with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit. In such cases, the office will issue comportsing certificates of ownership to transferees or allocates designated by the transferor or allocator in writing until such time as the tax credits represented in the transferor's or allocator's original certificate have been exhausted.

4. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Louisiana Department of Revenue with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office pursuant to this rule evidencing the dollar amount of the investor tax credits being claimed; provided, however, if a taxpayer is claiming an amount of investor tax credits less than that evidenced by the certificate of ownership, then, concurrently with filing its Louisiana tax return, such taxpayer shall request that the office issue to it a certificate of ownership evidencing the amount of investor tax credits to be claimed and a certificate of ownership evidencing the balance of such taxpayer's investor tax credits. After receipt of such request, the office shall issue the certificates of ownership signed by the director reflecting, in addition to the amount of investor tax credits, the taxpayer's name, the calendar or fiscal year in which the investor tax credits were originally earned by an investor pursuant to R.S. 47:6007 (C), the state-certified production

with respect to which such investor earned the investor tax credits, and the identifying number assigned to such state-certified production.

5. The failure of the office to issue a timely certificate of ownership in accordance with this rule shall not:

- a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;
- b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47: 6007 and these rules; or
- c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007 (E) or (F) or otherwise.

6. Beginning January 1, 2006, for state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company submits a fee of \$250 per additional certification to the Office of Entertainment Industry Development and the Department of Economic Development for the costs of any additional certifications.

C. In the event that an application for initial certification or request for certification of the credits is denied:

1. The department, office and, in the case of infrastructure projects, the division shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

2. Whereupon an application or certification is denied, an applicant may appeal that decision to the Administrative Law Judge in accordance with R.S. 49:992 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1605. Base Investment Calculation

A. For purposes of R.S. 47:6007 (C)(1), the total base investment shall be calculated by including all amounts expended in the state constituting base investment:

1. For state certified productions, if each such investment constituting a base investment is made within the period beginning 12 calendar months before and ending 12 calendar months after the date as of which the state-certified production for which base investment is being calculated was approved as a state-certified production, unless the production has commenced, in which case the initial certification shall be valid until the production is complete. However, no state-certified production expenditure shall be attributed to more than one production (or in the case of tangible assets built exclusively for a single production, the asset shall only be allowed as an expenditure once regardless of if it is obtained by a company in the development of an infrastructure project.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1606. Infrastructure Portion of the Investor Tax Credit

A. For infrastructure projects, the department, office and division may grant investor tax credits for multiple purpose immovable and moveable assets as provided by this section.

1. As stated in subsection A of §1601 and with the intent of Act 456 of the 2007 Regular session as expressed in R.S. 6007 (D)(1), infrastructure project tax credits are granted to encourage development of a strong industry base for motion picture production. Consistent with this intent and purpose stated in Section 4 of Act 456 of the 2007 Regular Session, the department, the office and the division may grant tax credits only for infrastructure projects directly related to the acquisition and construction of a film, video, television or video production or postproduction facility and shall not grant credits for any infrastructure project or investment in assets such as a hotel or lodging facility, golf course, or retail shopping facility or other facility which the division of Administration and the Department of Economic Development deems unrelated to the acquisition and construction of a film, video, television, or video production or postproduction facility. However, for any applicant requesting approval as a state-certified infrastructure project that includes secondary investments, the certification shall include and shall state terms and conditions as provided by Paragraphs 2 and 3 of this Subsection.

2. The department, office and division may determine that real property or fixed assets having uses other than supporting a state of the art production facility may be a necessary component of a state-certified infrastructure project. In instances where applications include such multiple purpose real property or other fixed assets, the department, office and division shall require the applicant to provide assurances that such assets will *exclusively* support the approved film infrastructure project and that the applicant will not divert the use of the assets to purposes that do not promote or provide for the productions within the state of Louisiana. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; and/or a structured release of tax credits.

3. The department, office and division may require assurances of the applicant for a state-certified infrastructure project that moveable assets shall remain in Louisiana and be used in the production of motion pictures or other visual media productions within the state of Louisiana for not less than 80 percent of the asset's useful life. Such assurances shall be secured by appropriate agreements, including, but not limited to, a requirement of approval prior to sale of such assets; a requirement for a minimum number of years before such assets may be transferred to a different owner; limitations on transferability of the tax credits for current or future holders, a reserve fund that may be re-captured by the state; and/or a structured release of tax credits.

4. Secondary investments shall be deemed unrelated to the acquisition or construction of a production or post

production facility. If any of these four criteria are met by the secondary investment, the entire amount addressed by that criterion shall be deemed an unrelated investment and shall not be eligible for tax credit. These criteria only apply to secondary investments:

a. The total value of the secondary assets, excluding land and general infrastructure improvements, comprise 10 percent or more of total investment in project's total value;

b. The total value of any secondary assets designated as a single functional component exceeds 3 percent of the project. For purposes of this criterion, a single functional component is any set of assets that can function as a business enterprise independently of the project's production or postproduction facilities. Examples of a single functional component include, but are not limited to hotels, lodging facilities including residential housing, or general purpose office buildings, including supporting facilities, such as parking lots.

c. General infrastructure improvements (drainage, roads, sewer, utilities or other basic improvements) comprise 15 percent or more of a project's total value that are primary investments.

d. Land that exceeds more than 15 percent of a project's total value.

5. Golf courses are not eligible.

6. Retail shopping facilities are not eligible.

7. Any conditions to meet the requirements to this Subsection shall be explicitly stated in the certification issued for the project.

B. For infrastructure applications received prior to August 1, 2007:

1. The applicant shall have twenty-four months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the 40 percent tax credits earned on expenditures.

2. Tax credits on infrastructure projects shall be considered earned in the year in which expenditures were made, provided that a minimum of 20 percent or \$10,000,000 of the total base investment provided for in the initial certification that is unique to film production infrastructure shall be expended before infrastructure tax credits can be earned on expenditures.

3. The payment of tax credits may extend beyond or be made after the year expenditures are made.

C. For infrastructure applications received after August 1, 2007, and before January 1, 2009:

1. The tax credit shall be equal to 40 percent of the base investment expended in this state on projects, which are in excess of \$300,000.

2. The total tax credit allowed shall not exceed \$25,000,000.

3. An infrastructure project shall be approved if it is a film, video, television, or digital production or postproduction facility.

4. If all or portion of an infrastructure project is a facility which may be used for other purposes unrelated to production or postproduction activities, then the project shall be approved only if a determination is made that the multiple-use facility will support and will be necessary to secure production or postproduction activity for the production and postproduction facility and the applicant provides sufficient contractual assurances that:

a. the facility will be used as a production or postproduction facility, or as a support and component thereof, for the useful life of the facility;

b. no tax credits shall be earned on such multiple-use facilities until the production or postproduction facility is complete.

5. Construction of the infrastructure project shall begin within six months of the initial certification.

6. Twenty-five percent of the total base investment provided for in the initial certification of an infrastructure project shall be certified as expended before any credits may be earned.

7. No tax credit shall be allowed for expenditures made for any infrastructure project after December 31, 2008, unless 50 percent of the total base investment provided for in the initial certification of the project has been expended prior to that date. The expenditures may be finally certified at a later date.

8. Expenditures shall be certified by the department, office and division and credits are not earned until such certification.

a. For purposes of allowing tax credits against state income tax liability and transferability of the tax credits, the tax credits shall be deemed earned at the time expenditures are made, provided that all requirements of this subsection have been met and after the tax credits have been certified.

b. The department, office and division may require the tax credits to be taken and/or transferred in the period in which the credit is earned or may structure the tax credit in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years.

c. The credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

§1607. Payroll Portion of the Investor Tax Credit

A. To the extent base investment is expended on payroll for Louisiana residents employed in connection with a state-certified production, each investor shall be allowed an additional tax credit of 10 percent of such payroll. However, if the payroll to any one person exceeds \$1,000,000, this additional credit shall exclude any salary for that person that exceeds \$1,000,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, the Department of Economic Development, Office of Business Development, and the Office of Entertainment Industry Development, LR 34:

Family Impact Statement

The proposed Rules 61:I.Chapter 16. Subchapter A. Louisiana Motion Picture Investor Tax Credit Program should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons should submit written comments on the proposed Rules to Christopher Stelly through the close of business on January 9, 2008, at Post Office Box 94185, Baton Rouge, LA 70804-9185 or 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be submitted by email to dstelly@la.gov or by fax to 225-342-5403. A meeting for the purpose of receiving the presentation of oral comments will be held on January 24, 2008, at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Sherri McConnell
Director

0712#078

POTPOURRI

Department of Environmental Quality Office of the Secretary

Toxic Air Pollutants—Request for Comments

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking information and comments from the public concerning three toxic air pollutants: sulfuric acid, methyl ethyl ketone (MEK), and ammonia.

The department is currently reviewing and updating the list of Louisiana toxic air pollutants and their associated ambient air standards contained in the Louisiana Comprehensive Toxic Air Pollutant Emission Control Program found in LAC 33:III.Chapter 51. As part of that review, the department is seeking information regarding the following:

1. Sulfuric Acid
 - a. Information in support of, or adverse to: retaining the current standard of 23.8 $\mu\text{g}/\text{m}^3$ for sulfuric acid; revising the current standard of 23.8 $\mu\text{g}/\text{m}^3$ for sulfuric acid to another scientific-supported value; or revising the current standard of 23.8 $\mu\text{g}/\text{m}^3$ for sulfuric acid to 4.7 $\mu\text{g}/\text{m}^3$, which is based on a modification of the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs). Please include all supporting relevant scientific information, including, but not limited to, health studies, risk data, epidemiological studies, exposure studies, and any other pertinent information, relating to the inhalation effects of the particular standard of sulfuric acid on the respiratory system.
 - b. Relevant information concerning the regulatory impact, including, but not limited to, the fiscal and economic impacts and costs of compliance, associated with lowering the current ambient air standard for sulfuric acid from 23.8

$\mu\text{g}/\text{m}^3$ to 4.7 $\mu\text{g}/\text{m}^3$. Please include specific information on the practicality and/or impediments to utilizing the exemption currently contained in LAC 33:III.5109.B.3 and 4 for facilities not able to comply with the lower ambient air standard.

2. Methyl Ethyl Ketone (MEK). Information in support of removing MEK from, or in the alternative, retaining MEK on, the list of toxic air pollutants found in LAC 33:III.Chapter 51. Please include relevant scientific information, including, but not limited to, health studies, risk data, epidemiological studies, exposure studies, and any other pertinent information, relating to the inhalation effects of MEK on the respiratory system.

3. Ammonia. Information in support of removing ammonia from, or in the alternative, retaining ammonia on, the list of toxic air pollutants found in LAC 33:III.Chapter 51. Please include relevant scientific information, including, but not limited to, health studies, risk data, epidemiological studies, exposure studies, and any other pertinent information, relating to the inhalation effects of ammonia on the respiratory system.

Written comments must be received no later than March 4, 2008, at 4:30 p.m., and should be sent to Jim Orgeron, Office of Environmental Assessment, Air Quality Assessment Division, Box 4314, Baton Rouge, LA 70821-4314 or to fax (225) 219-3582 or by email to james.orgeron@la.gov. Persons commenting should reference 0712Pot2 in their correspondence.

Herman Robinson, CPM
Executive Counsel

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Department of Environmental Quality Office of the Secretary

Mercury Risk Reduction—Advanced Notice of Rulemaking and Solicitation of Comments (LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721)(OS077)

The Louisiana Department of Environmental Quality is requesting comments on the draft proposed regulations, LAC 33:I.2701, 2703, 2705, 2707, 2709, 2711, 2713, 2715, 2717, 2719, and 2721 (OS077), that will implement Act 126 of the 2006 Regular Session of the Legislature (R.S. 30:2571 et seq.) regarding the control of mercury releases to the environment.

This Rule creates a comprehensive system for control of mercury-containing products; requires notification to the DEQ by manufacturers of mercury-containing products; phases out mercury-containing products with increasingly stringent restrictions on sales; requires manufacturers to provide collection plans for discarded mercury-containing products; provides for labeling of mercury-containing products and public outreach on the danger of mercury; bans certain methods of disposal of mercury-containing products; bans certain uses of mercury-containing products; and provides for exemptions to the requirements. Specific language is included to provide for the continued use of dental amalgam.

The department requests comments on the technical content of the draft rule. The department also requests comments on the estimated cost of implementation of this rule to the public, and other interested parties who could be affected by this Rule, for the purpose of preparing a Fiscal and Economic Impact Statement as required by law.

Written comments concerning the draft rule are due no later than 4:30 p.m., February 20, 2008, and should be submitted to Sharon Parker, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to sharon.parker@la.gov. Persons commenting should reference this document as OS077. Copies of the draft rule can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS077. This draft rule is available on the Internet at <http://www.deq.louisiana.gov/portal/tabid/2644/Default.aspx>.

The draft rule is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 27. Mercury Risk Reduction

Subchapter A. Requirements Related to the Sale of Mercury-Added Products

§2701. Authority

A. Regulations for the purpose of mercury risk reduction in the state of Louisiana are hereby established by the department pursuant to R.S. 30:2571-2588.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571-2588.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2703. Purpose

A. The purpose of this Chapter is to supplement procedures and requirements set forth in the Mercury Risk Reduction Act, R.S. 30:2571 et seq., for manufacturers of mercury-added products offered for sale, users of mercury-added products in drinking water and waste water treatment systems, and dismantlers of end-of-life products that contain mercury-added products within the state of Louisiana. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in the *Louisiana Administrative Code*, Title 33. Furthermore, nothing in this Chapter shall prevent a manufacturer of mercury-added products, or the department, from providing additional means for public information and participation consistent with this Chapter or any other Chapter of the *Louisiana Administrative Code*, Title 33.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2705. Definitions

A. The following terms are used in these regulations and, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Amalgam—any of various alloys of mercury and other metals, as with tin or silver.

Amalgam Sludge—the mixture of liquid and solid material collected within vacuum pump filters or other amalgam capture devices.

Chair Side Traps—devices that capture amalgam waste during amalgam placement or removal procedures.

Contact Amalgam—amalgam that has been in contact with a patient. Examples include extracted teeth with amalgam restorations, carving scrap collected at chair side, and amalgam captured by chair side traps, filters, or screens.

Empty Amalgam Capsules—individually-dosed containers left over after mixing pre-capsulated dental amalgam.

Fabricated Mercury-Added Product—a product that consists of a combination of individual components that combine to make a single unit, including but not limited to mercury-added measuring devices, lamps, and switches.

Formulated Mercury-Added Product—a chemical product, including, but not limited to, laboratory chemicals, cleaning products, cosmetics, pharmaceuticals, and coating materials, that are sold as a consistent mixture of chemicals.

Health Care Facility—any hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

Manufacturer—any person, firm, association, partnership, corporation, governmental entity, organization, or combination or joint venture that produces a mercury-added product, or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multi-component mercury-added product, the *manufacturer* is the last manufacturer to produce or assemble the product. If the multi-component product is produced in a foreign country, the *manufacturer* is the importer or domestic distributor.

Mercury-Added Novelty—a mercury-added product intended mainly for personal or household enjoyment or adornment. *Mercury-added novelties* include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel including footwear, and similar products.

Mercury-Added Product—a product, commodity, chemical, or product with a component that contains mercury or a mercury compound intentionally added to the product, commodity, chemical, or component in order to provide a specific characteristic, appearance, or quality or to perform a specific function or for any other reason. These products include *formulated mercury-added products* and *fabricated mercury-added products*, as defined in this Subsection. The presence of mercury as a contaminant does not of itself make a product a *mercury-added product*.

Mercury Fever Thermometer—a mercury-added product that is used for measuring body temperature.

Non-Contact Amalgam (Scrap)—excess mix left over at the end of a dental procedure.

Vacuum Pump Filters—devices that may contain amalgam sludge and water by filtering solids from vacuum lines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2707. Notifications

A. Effective January 1, 2007, no mercury-added product shall be offered for final sale or use or distributed for promotional purposes in Louisiana without prior notification in writing by the manufacturer of the product to the Office of the Secretary in accordance with the requirements of this Section. The Interstate Mercury Education and Reduction Clearinghouse (IMERC) report may be used for notification purpose; a form can be obtained from IMERC, the department, or the department's website.

1. The notification to the department shall, at a minimum, include:

- a. a brief description of the product to be offered for sale, use, or distribution;
- b. the amount of, and purpose for, mercury in each unit of the product;
- c. the total amount of mercury contained in all products manufactured by the manufacturer; and
- d. the name and address of the manufacturer, and the name, address and phone number of a contact at the manufacturer.

2. For purposes of complying with this Section, the manufacturer may submit to the department a copy of the report sent by the manufacturer to the Interstate Mercury Education and Reduction Clearinghouse (IMERC). At a minimum, the copy of the report shall contain the information listed in Subparagraphs A.1.a-d of this Section.

B. Any mercury-added product for which federal law governs notice in a manner that preempts state authority shall be exempt from the requirements of this Section.

C. With the approval of the department, the manufacturer may supply the information required in this Section for a product category rather than an individual product. The manufacturer shall update and revise the information in the notification whenever there is a change in the information, or when requested by the department, within 90 days of the change. A notification pursuant to this Subsection is to be mailed to the Office of the Secretary.

D. A manufacturer may request confidentiality for certain submitted information by following the procedures in LAC 33:I.Chapter 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2709. Notification of Certain Mercury-Added Products Restricted for Sale

A. The final sale, use, and distribution of certain mercury-added products have been restricted in R.S. 30:2575(A)-(D).

B. Manufacturers that produce and sell such materials shall notify retailers about these restrictions in writing. The notification shall contain the following information:

1. the date of restriction;
2. proper handling and disposal instructions;
3. recycling options; and
4. proper clean-up instructions in case of spills.

C. Manufacturers shall keep records documenting this notification and immediately available for the department's inspection upon request. These records shall be maintained for at least three years after the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2711. Petitions for Exemptions from Phase Outs

A. The manufacturer of a mercury-added product subject to the phase-out provisions of R.S. 30:2576 may petition the administrative authority for an exemption.

B. Applications for exemption from mercury-added product sale phase-out must contain the following information:

1. documentation of the basis for the requested exemption or renewal of exemption;
2. a description of how the manufacturer will ensure that a system exists for the proper collection, transportation, and processing of the products at the end of their useful life;
3. documentation of the readiness of all necessary parties to perform as intended in the planned system; and
4. a statement of the consistency of the exemption request with the practices of other IMERC states;
5. criteria considering whether use of the product is beneficial to the environment or protective of public health or protective of public safety, and if so, how;
6. criteria considering whether there exist any technically feasible alternatives to the use of mercury in the product, and if so, a description of such alternatives;
7. criteria considering whether any comparable non-mercury added products are available at a reasonable cost, and if so, a description of such products and their costs.

C. A mercury-added product shall be exempt from the limits on total mercury content set forth in R.S. 30:2576(A), if the level of mercury or mercury compounds contained in the product is required in order to comply with federal or state health, safety, or homeland security requirements. In order to claim exemption under this provision the manufacturer must notify, in writing, the Office of the Secretary and provide the legal justification for the claim of exemption.

D. The administrative authority may provide exemptions from this Section or any portion thereof when petitions for such are deemed appropriate after consideration of the factors enumerated in Paragraphs B.1-7 of this Section, as well as any other pertinent factors.

E. The administrative authority shall decide whether or not to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

F. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of

continued eligibility under the criteria of this Section and of compliance by the manufacturer with the conditions of its original approval. Exemptions may be renewed one or more times, and each renewal may be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2713. Labeling of Mercury-Added Products

A. The responsibility for product and package labels required by this Section and R.S. 30:2577 shall be on the manufacturer and not on the wholesaler or retailer unless the wholesaler or retailer agrees with the manufacturer to accept responsibility in conjunction with implementation of an alternative to the labeling requirements of this Section approved under R.S. 30:2578. In the case of a multi-component product that is produced in a foreign country, the responsible manufacturer is the importer or domestic distributor.

B. Mercury-added products manufactured after July 1, 2008, shall be labeled in accordance with this Section.

C. The following labeling standards shall apply to all mercury-added consumer products. The label shall:

1. be clearly visible to the product user;
2. be printed in English using a 10 point font or larger;
3. be mounted, engraved, molded, embossed, or otherwise affixed to the product using materials that are sufficiently durable to remain legible throughout the life of the product;
4. bear the wording "Contains Mercury" or equivalent wording;
5. state that the product cannot be placed in trash and must be recycled, handled as a universal waste, or disposed of as a hazardous waste. This requirement can be satisfied by any of the following wording, or other wording that is substantially equivalent.

"Contains Mercury. Don't Put In Trash. Recycle or Dispose as Hazardous Waste."

"Contains Mercury. Dispose of According to Local, State, and Federal Laws."

"Contains Mercury. Dispose of Properly. "

D. If the product incorporates a mercury-added component that is not visibly labeled in accordance with Paragraphs C.1-5 of this Section, the label on the larger product must clearly identify the internal component. This requirement can be satisfied by the following wording, or other wording that is substantially equivalent.

"The [describe component] in this product contains mercury. Dispose of according to local, state, and federal laws."

E. If the product is sold in packaging that obscures the label, the packaging also must be labeled such that the label:

1. is visible at the time of purchase;
2. bears the wording "Contains Mercury" in a 10 point or larger font;
3. identifies the mercury-added component within the package (e.g., "Lamp Contains Mercury" if the product is a light fixture that includes a fluorescent lamp); and

4. bears the wording "Dispose of according to local, state, and federal laws." or "Do not place in trash. Dispose of as a hazardous waste." or some equivalent wording.

F. If the product is offered for sale by catalog, telephone, or Internet such that the label on the product or packaging is not visible at the time of purchase, the consumer must be made aware prior to purchase that there is intentionally-added mercury in the product by placing a label or providing other information in sales literature, on website pages, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2715. Alternative Methods of Public Notification

A. A manufacturer may apply to the department for an alternative to the requirements of LAC 33:I.2713 where strict compliance with the requirements is not feasible, or the proposed alternative would be at least as effective in providing pre-sale notification of mercury content and in providing instructions on proper disposal, or federal law governs labeling in a manner that preempts state authority.

B. The manufacturer of a mercury-added product subject to the labeling provisions of LAC 33:I.2713 may apply to the department for approval of an alternative labeling plan. Applications for approval of an alternative labeling plan must contain the following information:

1. documentation of the justification for the requested alternative, which shall include, but not be limited to, any claim that strict compliance with the requirements of R.S. 30:2577 is not feasible, and any claim that federal law governs labeling in a manner that preempts state authority;

2. a description of how the alternative ensures that purchasers or recipients of mercury-added products are made aware of mercury content prior to purchase or receipt;

3. a description of how a person discarding the product will be made aware of the need for proper handling to ensure that the product is not disposed of with trash or garbage or in a sewer system;

4. documentation of the readiness of all necessary parties to implement the proposed alternative; and

5. a description of the performance measures to be utilized by the manufacturer to demonstrate that the alternative is providing effective pre-sale notification and pre-disposal notification.

C. The department may grant, deny, modify, or condition a request for an alternative to the requirements of LAC 33:I.2713 and approval of such alternative. The grant of the application for the alternative method of public notification shall be for a period of no more than two years and may, upon continued eligibility under the criteria of this Section and compliance with the conditions of its prior approval, be renewed for two-year intervals. Prior to approving an alternative, the department shall consult with neighboring states and regional and national organizations to ensure that the alternative labeling requirements are consistent with those of other governments in the region.

D. Requests for renewals of alternative labeling plans shall be submitted to the Office of the Secretary in writing six months prior to the renewal anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2717. Collection of Mercury-Added Products

A. A manufacturer of any mercury-added product that is offered for sale or distributed for promotional purposes in the state must implement a collection system plan that has been approved by the department. R.S. 30:2581 allows a manufacturer to develop a collection system plan either on its own or in concert with others.

B. The collection system plan must provide for the removal and collection of the mercury-added component or the collection of both the mercury-added component and the product containing it.

C. Prior to offering any mercury-added product containing more than 10 milligrams of mercury for final sale or use or distribution for promotional purposes in Louisiana, the manufacturer shall submit a written collection system plan to the Office of the Secretary and receive the department's approval. The proposed plan shall include the following information:

1. the manufacturer's name, mailing address, and if available, Internet address;
2. the contact person's name and phone number;
3. documentation describing a public education program, including implementation dates, that will inform the public about the purpose of the collection system program and how to participate in it;
4. identification of the targeted capture rate for the mercury-added product, product category, or component;
5. a plan for implementation of the proposed collection system, including documentation demonstrating the financing thereof;
6. documentation of the willingness of all necessary parties to implement and participate in the program and their contact information;
7. a description of the performance measures to be used to demonstrate that the collection system is meeting capture rate targets;
8. a description of additional or alternative actions that will be implemented to improve the collection system and its operation in the event that the program targets are not met;
9. a description of a recycling or disposal plan;
10. a signed certification stating that the person signing:
 - a. has personally examined and is familiar with the information submitted within the collection system plan and all attachments; and
 - b. is authorized to sign the certification by the entity on whose behalf he is signing.

D. Within a year of the department's approval of the collection system plan, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall ensure that a convenient and accessible recovery system for the users of those products is in full operation. Two years following the implementation of the collection system plan required under this Section, and every two years thereafter, the manufacturer, or the entity that submitted the plan on behalf of the manufacturer, shall submit a report on the effectiveness of the collection system. The report shall be

submitted to the Office of the Secretary by July 1 of each reporting year. The report shall include the following information:

1. an estimate of the amount of mercury that was collected;
2. the capture rate for the mercury-added products or components;
3. the results of the other performance measures included in the manufacturer's collection system plan; and
4. such other information as the department may require.

E. Mercury-added formulated products intended to be totally consumed in use, such as cosmetics, pharmaceuticals, and reagents and other laboratory chemicals, shall be exempt from the requirements of this Section.

F. The manufacturer of a mercury-added product subject to the collection system requirements of this Section may apply to the department for an exemption from this Section for a product or category of products. An exemption request shall contain, at a minimum, the following information:

1. the amount of mercury in the mercury-added product;
2. the total amount of the mercury-added product sold in Louisiana;
3. the total amount of mercury-added product disposed of in Louisiana;
4. the feasibility of a collection system; and
5. the overall risk to human health and the environment posed by the mercury-added product.

E. The administrative authority shall decide whether to grant the exemption requested within 180 days from the date on which the request for exemption was filed, unless a longer time period is agreed upon by mutual consent of the applicant and the administrative authority.

F. Exemptions may be renewed upon reapplication by the manufacturer and findings by the department of continued eligibility under the criteria of this Section and of compliance by the manufacturer with the conditions of its original approval. Exemptions may be renewed one or more times, and each renewal may be for a period of no longer than two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2719. Disposal Ban and Proper Management of Mercury in Scrap Metal Facilities

A. On and after January 1, 2007, mercury shall not be discharged to water, wastewater treatment, and wastewater disposal systems except when it is done in compliance with applicable local, state, and federal requirements.

B. No person shall crush or shred a motor vehicle unless the person has made a reasonable effort to remove, or verify the removal of, the mercury contained within convenience lighting switches and antilock braking system components.

1. Verification that the mercury contained within convenience lighting switches and antilock braking system components has been removed may be accomplished by:

- a. obtaining a certification by a duly authorized representative of the person delivering the scrap that the mercury contained within convenience lighting switches and

antilock braking system components required to be removed has been removed and is not included with the scrap delivered; and

b. conducting a visual inspection as practicable of the scrap delivered.

2. The person crushing the vehicle shall document the visual inspection and retain the documentation along with the certification from the duly authorized representative of the person delivering the scrap.

C. No person shall shred an appliance unless the person has made a reasonable effort to remove, or verify the removal of, the component mercury-added products. Obtaining a written certification by a duly authorized representative of the person delivering the scrap that mercury-added products required to be removed have been removed and are not included with the scrap delivered, and conducting a visual inspection as practicable of the scrap delivered, shall constitute verification that all of the component mercury-added products have been removed. The person who shreds an appliance shall retain the written certification required by this Subsection for a period of three years and shall allow the department to inspect and copy the certification upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§2721. Best Management Practices for Health Care Facilities

A. On and after July 1, 2007, any person using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a current and appropriate Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g), for any elemental mercury used.

B. On and after July 1, 2007, any person using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product must maintain a statement signed by him/her that certifies that his/her employees and other persons acting under his/her direction or control:

1. will use the mercury only for medical, dental, research, or manufacturing purposes;

2. understand that mercury is toxic, and will store, use, and otherwise handle such mercury in accordance with Subsection C of this Section; and

3. will dispose of the elemental mercury, formulated mercury-added product, fabricated mercury-added product, or mercury-added product in accordance with Subsection C or H of this Section.

C. Within 180 days of the effective date of these regulations, any person using a formulated mercury-added product, a fabricated mercury-added product, or a mercury-added product shall develop, maintain, and comply with a Mercury Management Plan (MMP) that is designed to eliminate or capture mercury in waste. The MMP shall meet the following minimum requirements.

1. A timeline for the reduction and eventual elimination of mercury-containing equipment and chemicals, with the exception of dental amalgam, shall be established.

2. A baseline inventory of mercury-containing devices and substances at the facility shall be listed.

3. Mercury management protocols for safe handling, mercury spill cleanup procedures, disposal procedures, and education and training of employees shall be established.

4. Discarded mercury-containing devices and substances shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Discarded mercury-containing devices and substances:

a. shall only be offered for recycling to treatment, storage, or disposal facilities that, if located in the United States, are either:

i. permitted under 40 CFR 270, LAC 33:V.Chapters 3, 4, 5, and 7, or a RCRA-approved hazardous waste program of any other state; or

ii. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271; and

b. shall not be offered for disposal by incineration.

5. Management and storage of discarded mercury-containing devices and substances waste shall be protective of human health and the environment. Storage shall be in structurally sound, leak proof, sealed, labeled containers that are impervious to mercury vapors. An example of a container meeting these criteria would be a clear glass container. Glass containers shall be secured inside a sturdy, padded box in order to prevent breakage of the glass and subsequent release of mercury.

6. An environmentally preferable purchasing (EPP) policy for mercury products and a process to regularly review mercury use reduction and elimination progress shall be established.

7. All other aspects of the MMP shall, at a minimum, conform to any best management practices (BMP) developed by the American Hospital Association or the American Medical Association or by Hospitals for a Healthy Environment (H2E). The H2E BMP is known as the Mercury Waste Virtual Elimination Model Plan.

E. Use of Dental Amalgam. Within 180 days of the effective date of these regulations, any person using dental amalgam shall develop, maintain, and comply with a Dental Amalgam Management Plan that is designed to capture mercury in dental amalgam waste and excess. This management plan shall meet the following requirements.

1. Chair-side traps and vacuum pump filters shall be used for the purpose of waste amalgam capture. Such devices shall be operated according to the manufacturer's recommendations.

2. Disposal of elemental mercury, dental amalgam, and used, disposable amalgam capsules shall be minimized by implementing practices that reduce mercury in waste, such as use of a variety of amalgam capsule sizes to minimize non-contact amalgam waste.

3. Waste amalgam (amalgam sludge and contact and non-contact amalgam) shall be recycled to the maximum extent practicable, and records associated with such recycling shall be maintained at the facility for at least three years. Waste amalgam shall be disposed of pursuant to Paragraph C.4 of this Section.

4. Management and storage of amalgam waste shall be pursuant to Paragraph C.5 of this Section.

5. Line cleaners shall be of a type that will minimize dissolution of amalgam. Only pH neutral, non-bleach, non-chlorine-containing suction line cleaners shall be used. Lines shall be cleaned daily on chairs where restorative dentistry is performed and as necessary, or according to the vacuum pump manufacturer's recommendations, on other chairs.

6. All other aspects of the Dental Amalgam Management Plan shall, at a minimum, conform to the BMP for amalgam waste as developed by the American Dental Association and published in October 2007. The American Dental Association (ADA) publishes BMPs for the disposal of dental amalgam waste. The ADA may be contacted through their website or at American Dental Association, 211 East Chicago Ave., Chicago, IL 60611-2678; phone 312-440-2500.

G. Pursuant to LAC 33:I.2717, manufacturers of mercury-containing devices and substances shall establish a convenient and accessible collection system for formulated mercury-added products, fabricated mercury-added products, or mercury-added products from medical facilities.

H. Mercury-containing devices and substances may contain mercury in sufficient quantities to be considered a hazardous waste as defined in LAC 33:V.Subpart 1, Hazardous Waste Regulations. The storage and disposal of such waste shall be subject to LAC 33:V.Subpart 1 if such waste cannot be recycled in accordance with Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

Herman Robinson, CPM
Executive Counsel

0712#035

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Public Hearing—State Fiscal Year 2009
Draft Annual Plan

Pursuant to R.S. 49:213.6, the Coastal Protection and Restoration Authority of Louisiana (CPRA), will hold the following public hearings to receive comments and recommendations from the public and from elected officials on Louisiana's draft "Fiscal Year 2009 Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana:"

Tuesday, January 15, 2008 at 3 p.m.
Central School
809 Kirby Street
Lake Charles, LA 70601

Thursday, January 17, 2008 at 3 p.m.
Lindy Boggs Conference Center
CERM Building
2045 Lakeshore Drive, Room 256
New Orleans, LA 70122

Wednesday, January 23, 2008 at 3 p.m.
Vermilion Parish Library
Abbeville Branch
405 E. Saint Victor Street
Abbeville, LA 70510

Wednesday, January 30, 2008 at 3 p.m.
Terrebonne Parish Consolidated Government
Government Tower Building
Council Meeting Room, 2nd Floor
8026 Main Street
Houma, LA 70360

If, because of a disability, you require special assistance to participate, please contact the DNR Secretary, at P.O. Box 94396, Baton Rouge, LA 70804-9396, or by telephone at (225) 342-2710, at least five working days prior to the hearing.

The contact for all meetings is Michele Deshotels at (225) 342-5175 or (225) 342-5160.

Please visit <http://lacpra.org> for more detailed information and a copy of the draft Annual Plan.

Sidney Coffee
Chairman

0712#038

POTPOURRI

Office of the Governor Office of Financial Institutions

2008 Judicial Interest Rate

Pursuant to authority granted by La. R.S. 13:4202(B)(1), as amended by Acts 2001, No. 841, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2008 will be 8.5 percent per annum.

John Ducrest
Commissioner

0712#004

POTPOURRI

Department of Health and Hospitals Board of Physical Therapy Examiners

Public Hearing—Supervision Requirements for the
Physical Therapist Assistant (LAC 46.LIV.321)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board gives notice seeking to incorporate substantive changes to the proposed amendments to the Board of Physical Therapy Examiners regulations, Title 46, Chapter 3. Practice Subchapter C. Supervised Practice, §321 Supervision Requirements, which were originally noticed in the April 20, 2007, issue of the *Louisiana Register*.

The board is proposing substantive changes to address comments received during the public comment period for proposed rule 321. The board's response was to change the proposed rule to eliminate the requirement for on-site supervision based on a percentage of the work-day or work-week altogether. It was discussed that there are no data which correlate such on-premises requirements with better patient outcomes or lower negligence claims. Emphasis was placed on the requirements for confidence by the PT in the skills and training of the PTA, together with intake, sixth visit and discharge treatments by the PT. Also, PT access upon request by the patient or the PTA is enhanced. It is acknowledged that some patients with high acuity would require more individualized treatment by both PTs and PTAs and that the Board Rule establishes only a minimum level of supervision, not a maximum. The board also saw the reduced supervision requirement as a response to the enhanced education and training standards for PTAs now entering the workforce.

A strikeout/underline version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the internet at www.laptboard.org under the heading Proposed Rules Update.

A public hearing on the substantive changes will be held at 6:00 p.m. on January 30, 2008, in Salon A and B on the 4th Floor of the Hilton Lafayette located at 1521 West Pinhook Road, Lafayette, LA 70507. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Cheryl Gaudin, at the address given below or at (337) 262-1043, extension 102.

Written comments regarding the substantive changes must be received no later than January 19, 2008, at 4:30 p.m., and should be sent to Cheryl Gaudin, Executive Director, 104 Fairlane Drive, Lafayette, LA 70507 or to FAX (337) 262-1054 or by email to cgaudin@laptboard.org. Persons commenting should reference §321 in their correspondence.

This regulation is available for inspection at the Board Office from 8 a.m. until 4:30 p.m.: 104 Fairlane Drive, Lafayette, LA 70507.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LIV. Physical Therapy Examiners
Subpart 2. Practice**

**Chapter 3. Practice
Subchapter C. Supervised Practice**

§321. Supervision Requirements

A. Licensed Physical Therapist Assistant

1. The level of responsibility assigned to the physical therapist assistant pursuant to §321.A is at the discretion of the physical therapist who is ultimately responsible for the care provided by this individual. A physical therapist may delegate only those functions to a physical therapist assistant for which he has documented training and skills. (moved from 3.e.)

2. In all clinical practice settings (deleted acute care facilities (home health, school, rehabilitation facilities, skilled nursing facilities and out-patient facilities) except

client preventative services defined in §321.A.3, the supervising physical therapist shall:

a. perform an evaluation and set up a written treatment plan on each patient prior to implementation of treatment;

b. treat and reassess the patient and document on at least every sixth treatment day, but not less than once per month;

c. treat and assess the patient at discharge and write a discharge summary;

d. conduct, once weekly and document, a face to face patient care conference with each physical therapist assistant to review progress and modification of treatment programs for all patients.

e. be readily accessible by beeper or phone and available to the patient by the next scheduled treatment session upon request of the patient or physical therapist assistant.

3. In client preventative services rendered by a licensed physical therapist assistant, the supervising physical therapist:

a. shall perform an initial screening to determine if an individual qualifies for preventative services and document;

b. shall provide education or activities in a wellness setting through the establishment of a program for the purpose of injury prevention, reduction of stress and/or the promotion of fitness;

c. shall be readily accessible by beeper or mobile phone;

d. shall conduct and document a face to face conference with the physical therapist assistant regarding each client at least every thirty days commencing with the initiation of the preventative services for that client.

A.3.e. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2401.2.A.(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:

Cheryl Gaudin
Executive Director

0712#074

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Examination Dates and Board Nominations

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline To Apply
April 7 through April 19, 2008	Monday, January 4, 2008

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows:

Test Date	Deadline To Apply
Friday, January 18, 2008	Friday, December 7, 2007

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at atlsvm@eatel.net; application forms and information are also available on the website at www.lsbvm.org.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of Board Member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held January 2008. Interested persons should submit the names of nominees directly to the LVMA as per La. R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Administrative Director

0712#010

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as

set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Calcasieu Oil Co Inc	Wildcat	L	Doiron	8	15109
Union Oil & Gas Corp of La	Hackberry, East	L	Watkins	51	32168 (30)

James H. Welsh
Commissioner

0712#068

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

Loran Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that eight claims in the amount of \$33,147.27 were received for payment during the period November 1, 2007-November 30, 2007.

There were seven claims paid and one claim denied.

Latitude/Longitude Coordinates of reported underwater obstructions are:

2912.755	8959.497	Jefferson
2914.907	8936.390	Plaquemines
2922.458	8943.383	Plaquemines
2923.021	9042.549	Terrebonne
2942.564	8948.922	Plaquemines
2946.260	9312.940	Cameron
2948.815	8939.577	St. Bernard
2949.728	8936.243	St. Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-0122.

Scott A. Angelle
Secretary

0712#069

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